89-248

FILED
AUG 10 1989
JOSEPH F. SPANIOL, JR.
CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1989

No. _____

DONALD E. TYLER, M.D.

Petitioner

v.

ANTHONY YTURRI, CLIFF S. BENTZ, TERESA J. HUTCHENS, CARL BURNHAM, JR., DEBBIE F. CRAIG, FREDERIC P. ROEHR, KENNETH E. ROBERTS, JAMES C. CARTER, KENNETH E. ROBERTS, P.C., SCHWABE, WILLIAMSON, WYATT, MOORE & ROBERTS, VERGEER, ROEHR & SWEEK, HOLMES, DeFRANCQ & SCHULTE, P.C., YTURRI, ROSE, BURNHAM, EBERT & BENTZ.

PART II OF APPENDIX A

OF PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Donald E. Tyler, M.D.
Petitioner, pro se
1092 SW 2nd Ave.
Ontario, Or 97914
Telephone (503)-889-5109

238 pt

APPENDIX A, PART II (Second volume)

TABLE OF CONTENTS (this volume) Page

COMPLAINT, case enjoined (continued) A-180

Exhibit A (Complaint prior case) A-283

Exhibit B (Removal "petition") A-329

Exhibit C (Letter and filing notice) A-333

Exhibit F (Order of conference) A-335

Exhibit G (Transcript ") A-336

Exhibit H (Corrected transcript) A-347

Exhibit I (Hartford motion-fees) A-347

Exhibit J (Transcript-dismiss) A-349

Exhibit K (Hartford motion-fees) A-359

Exhibit L (Opinion-Judge Redden) A-360

Exhibit M (Order dismissing) A-374

Exhibit N (Judgment-order) A-376

Exhibit P (Elden letter) A-377

Exhibit Q (Dismiss-Oregon Ct.) A-378

Exhibit R (Hearing-attorney fees) A-380

Exhibit S (Order-attorney fees) A-391

Exhibit T (Judgment-fees) A-392

DISMISSAL BY JUDGE JACKSON A-394

REGISTER OF ACTIONS case "removed" A-398

CONSTITUTIONS, STATUTES,RULES A-399

U.S. CONSTITUTION

Amendments I,V,VII A-399

OREGON CONSTITUTION

Art I, §§ 10,16,17 A-399

FEDERAL STATUTES

18 USC §1621 A-400

18 USC §§ 371, 241 A-401

28 USC § 144 A-401

28 USC §§ 455, 2283, 1912 A-402

28 USC §1446 A-403

28 USC §1447 A-404

FEDERAL RULES OF CIV. PROCEDURE 7,11 A-405

FEDERAL RULES APPELLATE PROCEDURE 38 A-407

OREGON STATUTES

ORS 9.460 A-407

ORS 161.450 A-408

ORS 162.085 A-409

ORS 162.235, 162.305 A-410

ORS 166.715 A-411

ORS 166.720 A-413

ORS 166.725 A-414

OREGON RULES OF CIV. PROC. 7,19,23 A-415

Pursuant to conspiracy subject of this complaint, on September 8, 1986, **coconspirator Judge Redden** wrote a letter to coconspirator Kobbervig with copies to "all parties," deceitfully and falsely to provide appearance of ignorance of the conspiracy as it related to the amended complaint. **Deceitfully**, without mentioning the fraudulent bogus "status conference" held September 2, 1986, he wrote, "... Setting aside, for the moment, the question of whether or not a removal is in order, **I do wish to be advised as to the then status of the case. ..."** (emphasis added) The "Government's Response to the Court's September 8, 1986 Letter" submitted by coconspirator **Kobbervig** on September 18, 1986, pursuant to conspiracy subject of this complaint fraudulently and deceitfully did not mention the amended complaint and

deceitfully did not state the date the bogus petition for removal was filed in the state court. The truth is, if Redden had really wanted to know the status of the case he would have caused the documents filed in the state court to be removed to the federal court pursuant to **28 USC s.1447.**

40.

On or about October 8, 1986, pursuant to conspiracy between **defendants Hartford, Yturri, Rose, et al., Burnham, and Hutchens, ratified by Anthony Yturri**, and pursuant to the overall total conspiracy subject of this complaint, under color and pretext of **Federal Rule of Civil Procedure 11** fraudulently submitted to the U.S. District Court for the District of Oregon, in Portland, Oregon, knowing that the court lacked jurisdiction, in writing **"MOTION OF DEFENDANT HARTFORD INSURANCE FOR ATTORNEY FEES AND COSTS PURSUANT TO**

FRCP 11," a motion for sanctions against the plaintiff including order that the plaintiff pay Hartford's attorney fees and costs, copy appended hereto as **EXHIBIT I**. The motion did not address itself to claim any inappropriateness of any pleading, motion or other paper signed or filed in the federal court by the plaintiff, but attacked "Plaintiff's complaints and motions before this court." (emphasis added) Deceitfully it did not confine itself to documents filed in the federal court by the plaintiff. At all times pertinent all defendants herein and coconspirator Redden knew that Rule 7 (b)(1) of the Federal Rules of Civil Procedure required, "An application to the court for an order shall be by motion which, unless made during a hearing or trial, shall be in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order

sought. ..." At all times herein, all defendants herein knew that the requirement of particularity was subject of many court decisions that ruled that the requirement of particularity is a real substantial requirement and not a matter of form. At all times pertinent, all defendants and Redden knew that the motions for attorney fees by Hartford did not conform to requirements of Rule 7, FRCP, as a motion, and that it should have been summarily denied if rule of law were followed, which pursuant to conspiracy it was not. Submitted pursuant to conspiracy, the motion is fraudulent substantively as well as procedural and is without merit on its face. At all times pertinent defendants and coconspirators Turner, Kobbervig, and Redden knew that Rule 11, FRCP is as follows:

"Every pleading, motion, and other paper of a party represented by an attorney

shall be signed by at least one attorney of record in his individual name, whose address shall be stated. A party who is not represented by an attorney shall sign his pleading, motion, or other paper and state his address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The rule in equity that the averments of an answer under oath must be overcome by the testimony of two witnesses or of one witness sustained by corroborating circumstances is abolished. The signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion, or other paper; that to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification,

or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion, or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion, or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both , an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee." The plaintiff sought no remedy in the federal court and the only motion the

plaintiff submitted to the federal court was his MOTION TO REMAND. Accompanying the aforementioned motion for attorney fees was an 11 page memorandum with 51 pages of exhibits. Pursuant to conspiracy, the memorandum mentioned the amended complaint once and directed 8 fraudulent objections to the null and void "complaint." Pursuant to conspiracy, the motion was deceitfully directed to the null and void complaint that was filed by the plaintiff in the state court over which the federal court lacked jurisdiction to apply its Federal Rule of Civil Procedure, Rule 11. A dubious copy, not an original signed document, was filed in the federal court by Turner and Kobbervig. Similarly, the amended complaint was filed in the state court, and an non-verified copy was submitted to the federal court as notice of such proper filing in the state court and as a source

of facts. The court did not have an original signed copy of the amended complaint, the plaintiff at all times challenged the jurisdiction of the federal court, and the document, EXHIBIT A, clearly seeks relief in the state court. Its construction was not and is not subject to federal rules of civil procedure. **The motion** to award Hartford its attorney fees **was fraudulent and oppressive in the extreme and was outrageous in the extreme.** At all times herein, all defendants and named coconspirators including Judge Redden knew that Rule 11 could not apply to the signing of documents directed to the state court or the filing of documents in the state court and which had been so ruled in at least one published U.S. court decision, Kendrick v. Zanides, 609 F.Supp. 1162 (1985, ND). Pursuant to conspiracy, the defendants aforementioned

presented in their memorandum as support for their motion a copy of a transcript of fraudulent, abusive, oppressive ranting made pursuant to conspiracy by Judge **Finesilver,** defendant in the case of EXHIBIT A, including reference to his **fraudulent illegal refusal to follow** the clear established **Colorado law that provides that statutes of limitation do not start to run until the last act pursuant to a conspiracy is committed** regardless of included acts which could be barred by statutes of limitation if not committed pursuant to a conspiracy as pronounced by the Colorado Supreme Court in Clark v. Machette, 92 Colo 365, 21 P.2d 182 (1933). At all times pertinent herein, defendants knew that Finesilver was a coconspirator and that his opinion which they presented was the proximate result of fraud and collusion. Pursuant to conspiracy, defendants Hartford,

Burnham, Hutchens, Yturri, Rose, et al., and ratified by Anthony Yturri, fraudulently injected Finesilver's fraudulent false rulings to provide coconspirator Judge Redden similar fraudulent pretext to dismiss the case based upon fraudulent misinterpretations of statutes of limitation, and to provide Redden with fraudulent false pretext to award Hartford attorney fees and costs. Pursuant to the total conspiracy, **the motion acted and acts as a form of extortion:** the plaintiff was threatened to be punished if he submitted any documents or if he acted or acts in any manner to assert or protect his rights in state or federal courts. **It was an open threat that the Plaintiff would be penalized with huge attorney fees of defendants if he submitted any documents whatsoever to federal courts in the case of EXHIBIT A** or any other lawsuit related

to the facts therein. At all times pertinent all defendants in this complaint and coconspirator Judge Redden knew that **the motion and its not being summarily denied violated rights of the plaintiff guaranteed by the U.S. Constitution including the 1st, 5th, 7th, and 14th Amendments.** In their memorandum accompanying the motion for attorney fees, defendants aforementioned pursuant to conspiracy wrote, "All of Plaintiff's allegations derive from a series of events in which Plaintiff's professional conduct as a physician was questioned and reviewed, his staff privileges at the Brighton Community Hospital in Brighton, Colorado were revoked, and consequently his malpractice insurance was not renewed." Each and all of the parts of that sentence are false and defendants who submitted it knew they were false when submitted. Pursuant to conspiracy,

defendants Hartford, Burnham, and Hutchens knowingly made false written statements to a public servant, Judge Redden, in connection with an application for a benefit in violation of ORS 162.085 (Unsworn falsification), and as a proximate result of such unlawful and criminal acts the plaintiff was injured and damaged as herein alleged. By their aforementioned acts defendants Hartford, Burnham, and Hutchens pursuant to conspiracy intentionally obstructed, impaired, and hindered the administration of law and judicial function by means of intimidation, economic interference, and obstacle in violation of ORS 162.235 (Obstructing governmental and judicial administration), and as a proximate result the plaintiff was injured and damaged as herein alleged.

41.

Pursuant to the conspiracy subject of this

complaint, at the so-called "status conference" September 2, 1986, and again in his order denying motion to remand on October 16, 1986, when he had already decided he would dismiss the case, coconspirator Judge Redden openly encouraged the plaintiff to serve the defendants summonses and complaints who were not served before the case was fraudulently claimed to have been removed, and on September 2, 1986, he invited the plaintiff to respond to motions to dismiss extremely outrageously for purposes of entrapment so that he could have some color of claim to jurisdiction, the plaintiff would lose more time and money, and the attorney fees of defendants with which to threaten the plaintiff and which he already planned to illegally award defendants could be even larger.

42.

Pursuant to conspiracy, on February 6,

1987, Judge Redden deceitfully indicated the need for repeat filing of the motion by Hartford for attorneys fees without stating a reason. Transcript of the ex parte hearing appended hereto as **EXHIBIT J,** page 6, line 24 to page 7, line 3. Pursuant to conspiracy the prior motion, EXHIBIT I, submitted before dismissal, was an obvious **illegal threat to prevent** and which prevented the plaintiff from **acting in the federal court** in the case subject of EXHIBIT A. At all times pertinent, defendants Hartford, Hutchens, Burnham, and Yturri, Rose, et al., and Redden also knew that **the prior motion for attorney fees was clearly a general appearance by Hartford.** Redden and the defendants knew at all times pertinent that a general appearance **waives any claim to lack of personal jurisdiction** as pronounced by the Oregon Supreme Court in Anderson v. Guenther, 144 Or 446, 22 P2d 339 (1933).

Pursuant to conspiracy a repeat of the motion was requested in preparation to fraudulently avoid and ignore the existence of the prior motion which not only prevented the plaintiff from responding to the fraudulent acts of defendants subject of this complaint, but was also a general appearance by Hartford.

43.

As a proximate result of the motion to award attorney fees submitted pursuant to conspiracy subject of this complaint to coconspirator Judge Redden who was acting obviously without jurisdiction and who to the plaintiff was an obvious conspirator, the plaintiff acting as a reasonably prudent person submitted no more documents to the court, and made no appearance of any kind, as any document submitted or appearance was reasonably expected by the plaintiff to result in retaliatory exorbitant fees of defense attorneys

ordered by dictatorial judicial fiat to be paid by the plaintiff or other illegal punishment. As a proximate result of the aforementioned motion for attorney fees and its not being summarily denied by coconspirator Redden, the plaintiff was illegally deprived of his rightful use of the U.S. Court for the District of Oregon, and he was illegally threatened to be punished and fined for his rightfully and legally filing a complaint in the Circuit Court of the State of Oregon for the County of Malheur. Pursuant to conspiracy the aforementioned motion and its maintenance was and is an open continuing threat to take the plaintiff's property without due process of law by dictatorial fiat of a judge flagrantly acting without jurisdiction and without regard for common law, statutes, legal precedence, or the guarantees to the people in the amendments of the U.S. Constitution. The illegal

threat is continuing as any related lawsuit the plaintiff might rightfully commence in state or federal courts.

44.

Pursuant to conspiracy subject of this complaint, on February 12, 1987, defendants Hartford, Burnham, Hutchens, Yturri, and Yturri, Rose, et al., again submitted to the federal court knowing it lacked jurisdiction a repeat of their fraudulent motion for attorney fees accompanied by their fraudulent bill. Copy appended as **EXHIBIT K.**

45.

On or about July 29, 1986, knowing that the federal court lacked jurisdiction, pursuant to conspiracy coconspirator Thomas K. Elden, seeking benefit of dismissal for his clients from a public servant, Judge Redden, submitted the following false and fraudulent written claim, knowing it was false: "...any

reference to events that occurred in 1965, they are obviously barred by the Oregon ten year statute of ultimate repose in O.R.S. 12.115." The statute Elden fraudulently cited limits the time for suing for acts of negligence, reading as follows: "In no event shall any action for negligent injury to person or property of another be commenced more than 10 years from the date of the act or omission complained." There is no claim in EXHIBIT A that the clients of Elden or any other defendant acted negligently. The claims against the clients of Elden in EXHIBIT A were for malicious, willful, wanton, intentional acts. They were being sued in the lawsuit of EXHIBIT A for intentional acts subject to statutes of limitation concerning **acts committed pursuant to conspiracy and accumulated acts that produced one indivisible unapportionable injury to the plaintiff.** Cited acts

committed by Elden's clients were committed on or about May 2, 1986. (paragraphs 53 and 54, EXHIBIT A). At all times pertinent herein all defendants and named coconspirators knew that the action was not barred by any statute of limitations on the face of the complaint, and that the defense must be raised by answer in accord with holdings of the Oregon Supreme Court in Davis v. Davis, 20 Or 78, 25 P. 140 (1890), and in Buckman v. Hill Military Academy, 190 Or 194, 223 P2d 172 (1950). No defendant answered the complaint to raise the defense of statute of limitations. Coconspirator Elden intentionally obstructed, impaired and hindered the administration of law and judicial function in violation of ORS 162.235 (Obstructing governmental or judicial administration), and as a proximate result of his unlawful and criminal acts committed pursuant to

conspiracy subject of this complaint the plaintiff was intentionally injured and damaged as herein alleged.

46.

Pursuant to conspiracy, on August 4, 1986, defendant Carter submitted fraudulent written statements to the U.S. District Court for the District of Oregon in Portland, Oregon, in fraud knowing the court lacked jurisdiction. Knowing it was deceitful and fraudulent Carter stated, "Compton v. Ide, 732 F2d 1429, 1432 (9th Cir 1984) held that 'mere continuance of a conspiracy beyond the date when injury or damage occurs does not extend the statute of limitations.'" That deceitfully was submitted as applicable. The applicable and true holding is the following sentence where the court held that "To establish a continuing violation, continued unlawful acts must be demonstrated." At all times pertinent, Carter, other defendants, and

all named coconspirators including Redden knew that the plaintiff clearly alleged in EXHIBIT A unlawful acts committed in May, 1986, in furtherance of the conspiracy. Continuing pursuant to conspiracy, Carter fraudulently wrote, "in Hoffman v. Halden, 268 F2d 280, 302 (9th Cir 1959), it was held that when the plaintiff alleged the existence of a 'civil conspiracy to violate the Civil Right Act'," (that part of the quote cannot be confirmed), "the statute of limitations runs from the overt act alleged to have caused damage." Pursuant to conspiracy, that written statement was deceitful and taken out of context to claim that statutes of limitation commenced to run with the first damaging act committed pursuant to conspiracy. In truth, on the following page the court held, "the last overt act alleged from which damage could have flowed, this date becomes the last date

from which a statute of limitations might run." The aforementioned deceitful acts by defendant Carter were committed pursuant to conspiracy to provide pretext for dismissal of the lawsuit against defendants in EXHIBIT A. By his deceitful acts committed pursuant to conspiracy, defendant Carter intentionally obstructed, impaired and hindered the administration of law and judicial function in **violation of ORS 162.235**, and as a proximate result of his unlawful acts committed pursuant to conspiracy subject of this complaint the plaintiff was intentionally injured and damaged as herein alleged.

47.

Pursuant to conspiracy, at all times pertinent the defendants and all coconspirators named herein including Judge Redden falsely and deceitfully appeared confused and ignorant of (a) the date the amended complaint was

filed, July 7, 1986, and (b) the date the bogus petition for removal was filed, July 9, 1986, in the State court. The truth is all of them including coconspirator Judge Redden received early and repeated notice of those dates and their significance. Copies of the **amended complaint** that were mailed to defendants in EXHIBIT A, lawyer and judge clients of defendants herein, were each stamped by the court with the time and date it was filed. **The time of filing at 8:33 A.M., Monday, July 7, 1986**, after a three day holiday put the **lawyer-defendants** on **notice** that it was probably filed before any mail was received for filing from Turner and Kobbervig even if they had mailed a copy of their bogus petition to the state court in Vale, Oregon, on the date they filed it in federal court, Thursday, July 3, 1986. Turner and Kobbervig were notified by the clerk of the state court that the copy of

their petition was received July 9, 1986, by letter to them on that date. In Hartford's MOTION TO QUASH SERVICE AND DISMISS PLAINTIFF'S AMENDED COMPLAINT filed in the Circuit Court dated July 9, 1986, Defendants Hartford, Hutchens, Burnham, Yturri, Rose, et al. stated "Hartford Insurance has not as yet been served with Plaintiff's Amended Complaint. Hartford Insurance has knowledge of Plaintiff's Amended Complaint only through the courtesies of this court." Being informed by the court of the filing of the amended complaint and not the bogus petition for removal the inference is clear that the aforementioned lawyer-defendants and Hartford knew the amended complaint was filed before the bogus petition for removal was filed in the state court. In a motion submitted to the federal court and Judge Redden dated July 11, 1986, Defendants Hartford, Bentz,

Burnham, and Yturri, Rose, et al., seeking additional time to respond to the AMENDED COMPLAINT stated, "The Petition for Removal was filed on July 9, 1986 in the Circuit Court of the State of Oregon for the County of Malheur. This is thus the date the Petition was effective. 28 USC s 1446(e)." (emphasis added) That document notified Judge Redden of facts of date of removal and that Hartford attorneys knew that they must respond to the amended complaint, (which was received by Hartford on July 8, 1986), and Bentz certified that he sent a copy to Defendant Kobbervig. Bentz, Burnham, Hartford, and Yturri, et al., repeated the same statements, including that the date the petition was effective was July 9, 1986, in another written motion directed to the federal court and Judge Redden dated August 4, 1986. Bentz certified that he sent copies of that motion on that date to Defendants

Roehr, Turner, and Kenneth E. Roberts and to coconspirators Kobbervig and Elden. They were all directly informed on or before August 6, 1986, that the bogus petition was not filed in the state court until July 9, 1986. On August 7, 1986, the plaintiff submitted to the U.S. District Court, to Redden, and to defendants Carter, Kenneth Roberts, Burnham, Bentz, Yturri, Rose, et al., and Roehr and to coconspirators Turner, Kobbervig,, and Elden copies of bogus documents filed in the state court by Turner and Kobbervig including the copy of the so-called petition for removal (without the accompanying complaint), notice of filing of the petition, and cover letter. Each of the copies of the documents was stamped that showed that the filing in the state court by Turner and Kobbervig was July 9, 1986. On August 13, 1986, the plaintiff mailed to the clerk of

the U.S. Court, Redden, and to each and all of the aforementioned defendants and coconspirators **documents that notified them that the Amended Complaint was filed in the state court on July 7, 1986.**

48.

Knowing that the removal was fraudulent and ineffective, and knowing that the original or certified copies of the complaint or amended complaint had not been removed to the federal court from the state court, knowing that the federal court lacked subject matter jurisdiction, and knowing that the "complaint" was null and void and replaced by an amended complaint, on or about July 29, 1986, pursuant to conspiracy subject of this complaint, coconspirator **Elden** fraudulently submitted to the U.S. District Court for the District of Oregon and to coconspirator Judge Redden motion to dismiss as follows: "Come now

defendants Carl R. Kostol, Allan L. Ferrin, David E. Reid, and Howard I. Bobbitt (state defendants) and respectfully move the court pursuant to F.R.C.P. 12(b)(6) to **dismiss the complaint which has been removed to federal court** for failure to state a claim upon which relief can be granted. ..." (emphasis added) It was clearly the null and void "complaint" and the non-certified copy filed by coconspirators Turner and Kobbervig to which the motion was fraudulently directed. Pursuant to conspiracy the motion was never amended even after Elden received written notice from the plaintiff that the "complaint" was replaced by an "amended complaint" prior to the bogus removal. On July 8, 1986, Elden telephoned the plaintiff and was advised that an amended complaint was filed the day before. It was apparent that neither plaintiff or Elden had been

notified that a petition for removal was filed. The motion submitted by Elden clearly had no legitimate legal purpose and pursuant to conspiracy was a fraudulent use of legal proceedings to intentionally illegally damage and injure the plaintiff. By the aforementioned act committed pursuant to the conspiracy subject of this complaint, coconspirator Elden intentionally obstructed, impaired and hindered the administration of law and judicial function by economic interference and obstacle in violation of ORS 162.235, and as a proximate result of that unlawful and criminal act committed pursuant to conspiracy the plaintiff was injured and damaged as herein alleged.

49.

Pursuant to conspiracy, knowing the federal court lacked jurisdiction, and knowing that the "complaint" was a nullity, on or about August 4, 1986,

Defendants Roehr and Craig, both lawyers, fraudulently submitted to the U.S. District Court for the District of Oregon in the case of EXHIBIT A "Motions of Defendant Debbie Freepons Craig to dismiss plaintiff's complaint." Pursuant to conspiracy, the word "complaint" was fraudulently used repeatedly in the five page document without mention of the amended complaint which Craig had been served. Pursuant to conspiracy, the motion was never amended even after it was provable that they had actual written notice the date of claimed removal was July 9, 1986. Defendant Roehr and Craig intentionally obstructed, impaired and hindered the administration of law and judicial function in violation of ORS 162.235, and as a proximate result of the foregoing unlawful and criminal acts committed pursuant to conspiracy the plaintiff was injured and damaged as

herein alleged.

50.

Knowing that the federal court lacked jurisdiction and that the complaint filed in that court was a nullity, **Defendant Carter** representing Colorado State judges, and pursuant to **conspiracy with Defendants Smith and Ruland** and pursuant to the total conspiracy subject of this complaint, knowing that the federal court and coconspirator Judge Redden lacked jurisdiction, on or about August 4, 1986, fraudulently submitted to the U.S. District Court for the District of Oregon in the case of EXHIBIT A written motions to dismiss the plaintiff's "claims" against defendant Colorado judges including Smith and Ruland. Pursuant to conspiracy, in the motion the words "complaint" or "amended complaint" deceitfully were not used, but in the 12 page memorandum submitted by those

defendants in support of the motion, **fraudulently directing their motion to the null and void complaint**, they wrote, "Defendants have moved for an order dismissing plaintiff's **complaint** ..." (emphasis added). Pursuant to conspiracy, they fraudulently repeatedly referred to the void complaint without mention of the amended complaint. Pursuant to conspiracy, in support of the aforementioned motion defendants Carter, Smith and Ruland submitted **fraudulent affidavits by judges including Smith and Ruland,** defendants herein and in EXHIBIT A, each of whom fraudulently **directed his sworn declarations to the "complaint"** although each had been served the amended complaint and knew that the "complaint" was a nullity. By their aforementioned acts committed pursuant to conspiracy, Defendants Carter, Smith and Ruland intentionally obstructed, impaired and

hindered the administration of law and judicial function by means of economic interference or obstacle in violation of ORS 162.235, and as a proximate result of those illegal and criminal acts committed pursuant to conspiracy the plaintiff was injured and damaged as herein alleged.

51.

On February 6, 1987, pursuant to conspiracy, acting without jurisdiction, coconspirator Judge Redden unlawfully and illegally dismissed the plaintiff's lawsuit of which EXHIBIT A is the amended complaint. Pursuant to conspiracy subject of this complaint, each and every holding of coconspirator Redden in EXHIBIT J and in his written opinion, EXHIBIT L, is the result of fraud and collusion, and made with coconspirator Judge Redden knowing that he lacked jurisdiction of the lawsuit of which EXHIBIT A is the amended complaint. Pursuant to conspiracy,

coconspirator Redden falsely, fraudulently and maliciously slandered and libeled the lawsuit of EXHIBIT A, and provided pretext for anticipated subsequent judges to cover him by doing the same types of false, fraudulent acts.

52.

Pursuant to conspiracy, coconspirator Judge Redden delayed issuing his written opinion until March 4, 1987, copy appended hereto as **EXHIBIT L.** Coconspirator Redden's fraudulent order of dismissal issued pursuant to conspiracy is appended as **EXHIBIT M** and his order of entry of judgement is appended as **EXHIBIT N.** His dismissal, entry of judgment, and opinion are the the result of fraud and collusion,and illegally were determined and issued pursuant to the conspiracy subject of this complaint.

53.

Pursuant to conspiracy, Redden's Opinion,

EXHIBIT L, is filled with false fraudulent fabrication of "facts" which he knew were false. Pursuant to conspiracy, some of his "fact" statements were fraudulently adopted from false fraudulent statements of lawyers who are defendants herein. Defendants and all named coconspirators including Judge Redden at all times pertinent knew that at this stage of proceedings the facts were those found in the Amended Complaint and those found in affidavits. Pursuant to conspiracy coconspirator **Judge Redden illegally denied the plaintiff benefit of the facts alleged in the Amended Complaint which at this stage of the proceedings must be accepted as true.** Pursuant to conspiracy, Redden's fraudulent opinion is not based upon affidavits or the Amended Complaint. Pursuant to conspiracy, each and every holding and ruling including dismissals by Redden are fraudulent. **Redden** acted

pursuant to conspiracy without jurisdiction which is on the face of the record. On the face of the record the petition for removal was inadequate and ineffective, and on the face of the record the judge did not have the original or certified copies of either the complaint or amended complaint. Lacking subject matter jurisdiction, the court lacked personal jurisdiction of all defendants of EXHIBIT A. In the following analysis, the plaintiff is directing his exposures to internal inconsistencies and frauds and to the acts of the judge as if he had subject matter jurisdiction which he did not. Some but not all of the complicated frauds and fraudulent acts committed by Redden pursuant to conspiracy in his opinion follow.

(1) Redden's characteristics of defendants are false and he knew his statement concerning them was false.

Contrary to his false statement, none of the defendants of EXHIBIT A are members of the medical staff of Brighton Community Hospital, the Colorado Board of Medical Examiners, or members of the Oregon Board of Medical Examiners. There is no legal evidence that any defendant is a member of the Colorado Medical Society. Redden fraudulently omitted characterizing several defendants.

(2) Redden stated, "The United States removed the case to federal court on July 3, 1986 on behalf of a federal judge who had been served, defendant Finesilver, and other federal officers and employees who had not been served." The statement is totally false in all its parts, Redden knew it was false when he issued his opinion, and it is fraudulent. The sentence is separated into its parts as follow:

(a) In truth, the bogus petition does not

claim that the United States removed the case. Redden knew when he issued the opinion that the right to remove pursuant to 28 USC s.1442 (the statute related to removal by federal employees), copy appended hereto as **EXHIBIT O**, is limited to served defendants. At all times pertinent, Redden knew that the United States was not a defendant and that even if the United States did remove it, which it did not, there was no jurisdiction of the United States in the state court and the only jurisdiction of the federal court was derivative and the case would necessarily be remanded as pronounced in Martinez v. Seaton, 285 F2d 587 (10th Cir, 1961). Redden changed his finding in his opinion denying plaintiff's motion to remand in which he ruled that Finesilver removed the case, (**paragraph 15 above**). That claim lacked deceit value in that it was too transparently false and fraudulent

to even those not legally trained.

(b) The case was not removed as falsely and fraudulently stated by Redden, who knew his statement was false when the opinion was issued. The petition was totally defective in that it was not filed in the federal court by a defendant, it was not verified, it was not accompanied by a bond, and a copy was not filed in the state court by a defendant. On the face of the record the lawsuit was not removed to the federal court.

(c) The date of July 3, 1986, as the claimed date of removal is false and fraudulent and Redden at all times pertinent herein knew that it was false and fraudulent. On that date, July 3, 1986, coconspirators Turner and Kobbervig filed their bogus petition for removal in the federal court. They filed a copy of their bogus petition in the state court on July 9, 1986. The removal statute,

EXHIBIT D, clearly states that removal is effected only upon filing of a copy of the petition in the state court by a defendant, and Redden knew that fact of law and he knew the date the bogus petition was filed in the state court when he issued his fraudulent opinion. Pursuant to conspiracy subject of this complaint, Redden falsely and fraudulently claimed the removal was **July 3, 1986**, knowing it was false to avoid the fact of the amended complaint being filed in the state court by the plaintiff on **July 7, 1986**, which was prior to bogus ineffective removal on **July 9, 1986**. Pursuant to conspiracy, in his opinion Redden fraudulently avoided referring to the "complaint" or the "amended complaint" except he **fraudulently ruled that the "complaint" was barred by statutes of limitation**, page 6, line 2, EXHIBIT L, and he referred to both the complaint and

amended complaint on lines 15-20 on page 7 in language that **admits his knowledge that the amended complaint was filed before the bogus removal** and that he distinguished between "complaint" and "amended complaint."

(d) Pursuant to conspiracy, Redden's statement that the petition was removed "on behalf of" a federal judge is false and fraudulent and Redden knew it was false when he issued the opinion. Without prior court order there is no provision in the rules or removal statutes for anyone to act "on behalf of" a party in a lawsuit, and Redden knew that at all times pertinent herein.

(e) Pursuant to conspiracy, Redden's statement that the petition was removed "on behalf of a federal judge who had been served, defendant Finesilver, and other federal officers and employees who had not been served" is fraudulent. There is no

legal evidence in the record that any federal officer or employee including Finesilver was served or was not served a summons and complaint. Coconspirator Judge Redden knew when he issued his opinion that Turner and Kobbervig in their bogus non-verified petition made no reference to a summons being served on Finesilver, which is required for personal jurisdiction and has been so pronounced by the Oregon Supreme Court in South State Inv. Co. v. Brigum, 43 Or App 273, 602 P2d 1084 (1979). The removal statute (EXHIBIT D) 26 USC s.1446 (a) requires the moving party to file with the petition for removal "a copy of all process, pleadings and orders served upon him ..." Turner and Kobbervig did not file a copy of any summons. Redden had to presume that Finesilver had not been served a summons. At all times Redden also knew that in addition to other defects in the bogus

petition, the bogus petition failed in the requirement that a petition is required to state with certainty even the date the removing party was served a summons as pronounced by a federal court in Jennings v. Cantrell, 392 F.Supp. 563 (ED, Tenn, 1974). Pursuant to conspiracy, in his opinion, EXHIBIT L, page 3, lines 12-17, Redden fraudulently omitted reference to the date he fraudulently claimed Finesilver was served. Redden knew when he issued his fraudulent opinion that proper **service of a summons and complaint on the federal officer in the state court is a precondition to removal under 28 U.S.C. s.1442** and that it was so found by federal courts in IMFC Professional Services of Florida, Inc., 676 F2d 152 (5th Cir, 1982), Housing Authority of City of Atlanta, GA. v. Millwood, 472 F2d 268 (5th Cir, 1973), and in Martinez v. Seaton, 285 F2d 587 (10th Cir, 1961).

Pursuant to the conspiracy subject of this complaint, **Redden fraudulently stated that Finesilver was served** to provide color to act as to defendants who were not federal employees since legal precedence clearly required remand to the state court when the federal defendant was not properly served a summons and copy of the complaint. **Redden knew that without personal jurisdiction of Finesilver he had no subject matter jurisdiction and therefor no personal jurisdiction of any of the parties of the lawsuit of EXHIBIT A.** That lack of jurisdiction in the federal court is on the face of the record.

(e)(1) Pursuant to conspiracy coconspirator Jerry C. Harris presented to the plaintiff the transcript of the hearing of February 6, 1987, copy appended as **EXHIBIT J.** On page 4, lines 2-4, the transcript reads, " MS. KOBBERVIG:

Judy Kobbervig, representing the three circuit and one district court judges; Judge Silverstein has never been served in this case." Ms Kobbervig had no connection with state judge Silverstein. The inference is clear that in truth she said "Judge Finesilver has never been served in this case." That did not correspond to Redden's fraudulent claim that Finesilver had been served. Pursuant to conspiracy between court reporter Harris and Redden and pursuant to the total conspiracy subject of this complaint, Harris illegally changed the original and true transcript. (See paragraph 38 above for similar act, a method of criminal conduct also employed by defendants in EXHIBIT A, paragraph 27 therein.)

(3) Pursuant to conspiracy, Redden falsely and fraudulently stated, "Plaintiff filed a motion to remand the

case to state court on August 8, 1986." Redden knew that was false. The plaintiff filed a motion to remand by certified mail on July 15, 1986, the return acknowledgment of receipt is stamped July 16, 1986, and it was docketed as received in the federal court on July 17, 1986.

(4) Redden stated in reference to Roberts, defendant in the case of EXHIBIT A, "Plaintiff's cases all stem from the failure to renew his hospital privileges at the Brighton Community Hospital in Brighton, Colorado approximately twelve years ago." That statement is false and fraudulent and Redden knew that it was false and fraudulent. The word "stem," according to a dictionary in this context means, "to derive from or originate in." There is no place in the record of this or any other lawsuit that justifies that statement. It is not only false, but it is fraudulent in that it fraudulently

implies that claims against Roberts in EXHIBIT A relate primarily to the Brighton Hospital by conspiracy and not as a result of his direct conspiratorial involvement with lawsuits against Hartford. Roberts' illegal activities subject to the lawsuit of EXHIBIT A relate to lawsuits against Hartford for libel, other unlawful acts of Hartford in conspiracy with a medical society committee to not renew plaintiff°s malpractice insurance, an antitrust action because of an illegal contract between Hartford and the Colorado Medical Society to obstruct justice in essentially all malpractice lawsuits and lawsuits by physicians against physicians, and a collusive lawsuit instituted by Hartford against the plaintiff.

(5) Pursuant to conspiracy, Redden further stated, "Plaintiff has alleged in the instant action that Mr. Roberts acted pursuant to a conspiracy by supplying the

Colorado Board of Medical Examiners deceitful, false information concerning the plaintiff." The statement is fraudulent in that it minimizes the claim of paragraph 39 of the Amended Complaint, EXHIBIT A, by not noting the nature of the information which related to the fraudulent lawsuit by a patient alleging malpractice that was commenced in collusion and at the instigation of Hartford, and by not noting the nature of the antitrust action by the plaintiff against Hartford and the medical society. Pursuant to conspiracy, the statement by Redden is fraudulent in that it omits the allegations against Mr. Roberts found on lines 1-9, page 18 of the Amended Complaint. Allegations there, avoided by Redden, relate to fraudulent documents submitted to judges of the Colorado Appeals Court by Roberts in participation in conspiracy with them and others to

dismiss a lawsuit against Hartford and others by means of fraudulent application of an immunity statute to persons not covered in the statute.

(6) The illegal dismissal of claims against Roberts by Redden pursuant to conspiracy with claim of lack of personal jurisdiction over him relates to fraudulent acts of Roberts and his attorney Kenneth E. Roberts related in paragraph 21 and other paragraphs herein. At all times pertinent Redden, defendants K. Roberts, and T. Roberts knew that acts committed by coconspirators in Oregon provided a legal basis of personal jurisdiction of T. Roberts in Oregon.

(7) Pursuant to conspiracy, in fraudulently characterizing the acts of the former members of the Board of Medical Examiners on page 7 of his opinion, Redden omitted the fact that the former members of the board and their lawyer, Bobbitt,

acted to continue the conspiracy subject of EXHIBIT A by not revealing the reason they refused in 1965 to issue a certificate of annual registration of the plaintiff's license to practice medicine, a clerical function which is a continuing illegal denial of plaintiff's right to use his license to practice medicine and surgery in Oregon. **The acts of refusing to supply information were committed in 1986 as alleged.** What they "stem" from is irrelevant as to statutes of limitation. Redden knew when he issued his fraudulent opinion that their acts "stem" from something known only to the defendants which they refused to reveal in 1986 and that refusal to supply information causes the conspiracy subject of EXHIBIT A to continue as alleged in EXHIBIT A.

(8) Redden fraudulently bars action against "state defendants" under pretext that the allegations are of acts which

"stem" from the past. Redden knew that what those acts stem from is irrelevant.

(9) Redden fraudulently characterized defendants Carl R. Kostol, M.D., Allan L. Ferrin, M.D., David E. Reid, D.O., and Howard I. Bobbitt, a lawyer, as "state defendants." The allegations against them are for acts committed at times when they were not members of the Board of Medical Examiners or state employees. That false fraudulent characterization is connected to fraudulent acts of coconspirator Assistant Attorney General for the State of Oregon, Thomas K. Elden. Under pretext of that false, fraudulent characterization, and Redden's false and fraudulent characterizations of the allegations, Redden fraudulently dismissed the action against them under pretext of a two year Oregon statute of limitation that relates to government officials. Even if his characterizations were correct, which

they were not, acts alleged in the complaint were in May, 1986, and acts committed pursuant to conspiracy subject of 42 USC s.1983, a statute providing for damages due to violations of Constitutional rights, do not start to run until the last overt act, and Redden knew that. Redden knew that no statute of limitation commences to run until the date of the last act committed pursuant to conspiracy or the last of the accumulated acts that produce an indivisible injury. Pursuant to conspiracy, Judge Redden, coconspirator of defendants herein, fraudulently and illegally **dismissed as to these and other defendants herein under pretext that the lawsuit of EXHIBIT A was commenced after the statutes of limitations had expired knowing that he lacked absolutely essential evidence to rule on any statute of limitation.** Because no records were removed from the

state court **he did not have legal evidence as to the date the lawsuit of EXHIBIT A was commenced**, and at all times pertinent herein Redden knew that he lacked the essential date of the filing of the complaint in the state court which commenced the lawsuit of EXHIBIT A. Pursuant to conspiracy, on page 3, line 12, of his opinion, EXHIBIT L, Redden wrote, "The case was initially filed in Malheur County, Oregon." **Pursuant to conspiracy, he deceitfully did not state the date.** Redden knew that he did not even have an affidavit or other legal evidence as to when the lawsuit was commenced by that filing. The only persons who could provide that absolutely essential legal evidence was the clerk of the state court and the plaintiff. Pursuant to conspiracy, **to provide some color or pretext for such a date, which he knew, he asked for that date in open court**

in the presence of the plaintiff on September 2, 1986, EXHIBIT G, page 6, line 11. He did not obtain the necessary certain date. The other essential date in ruling on a statute of limitations is the date the statute of limitations commenced to run. Pursuant to conspiracy Redden deceitfully avoided determining that date in each and every instance of rulings on statutes of limitation and he deceitfully referred to remote irrelevant dates.

(10) Redden's ruling as to failure to state a claim for relief is as false and fraudulent as the preceding acts, and particularly considering that his rulings relate to the null and void "complaint" and not the amended complaint which has technical changes to avoid pretext for such a ruling. Pursuant to conspiracy, his acts were intentionally committed to maliciously slander the lawsuit of EXHIBIT A.

(11) Pursuant to conspiracy, Redden fraudulently stated, "Moreover, the motion is granted as to plaintiff's third claim for relief because the claims of civil rights violations refer to events in Colorado and have no reference to the Oregon state defendants." At all times pertinent coconspirator Redden knew that any act in a state by a coconspirator is a "constructive presence" in the state by all conspirators as pronounced by the U.S. Supreme Court in Hyde v. U.S., 225 U.S. 347, 32 S.Ct. 793, 56 L.Ed. 1114 (1912). At all times pertinent Redden knew that all coconspirators were responsible for all acts committed pursuant to the conspiracy wherever they were committed. Pursuant to conspiracy Redden devised this second fraudulent reason for dismissing the civil rights claim because he knew that dismissal of the civil rights action based upon statutes of limitation was in

direct conflict with a case in the Ninth Circuit (the superiors of Redden), Hoffman v. Halden, 268 F2d 280 (1959) which held that the statutes of limitation for civil rights violations do not commence until the date of the last act committed pursuant to conspiracy.

(12) On page 6 of his opinion, **EXHIBIT L**, in reference to Hartford, Redden falsely and fraudulently repeated the false fraudulent statements of defendants herein as to facts of the case. Coconspirator Judge Redden at all times pertinent herein knew the difference between facts upon which to base opinions and decisions and facts as stated by lawyers. Redden, knowing it was and is false, falsely and fraudulently stated, "Plaintiff's professional conduct as a physician was apparently questioned and reviewed by a hospital review committee at Brighton Community Hospital." That

statement by Redden pursuant to conspiracy is extremely outrageous, irresponsible, false, libelous, and was made knowing it was not true in reckless disregard of the truth and of the rights and feelings of the plaintiff and to intimidate him pursuant to conspiracy. Pursuant to conspiracy, Redden's fraudulent statement that "Plaintiff reportedly refused to cooperate ..." flagrantly made to intentionally insult and intimidate the plaintiff with his abuse of power pursuant to conspiracy is like disparaging a woman for not cooperating with a rapist. Redden's false fraudulent statement pursuant to conspiracy that "consequently his liability insurance coverage was cancelled," was made by Redden knowing it was false to intimidate the plaintiff by his unlimited power to libel the plaintiff in his professions.

(13) Pursuant to conspiracy Redden

deceitfully wrote, "I need not reach the motions to strike and make more definite and certain ..." in truth because that motion was directed to the AMENDED COMPLAINT and to rule on that particular motion could require direct unambiguous reference to the amended complaint.

(14) Pursuant to conspiracy Redden falsely and fraudulently stated, knowing it was false, as to Hartford, "personal jurisdiction is lacking under Rule 4 of the Oregon Rules of Civil Procedure. Defendant Hartford has had no contact with Oregon which is relevant to the cause of action." At all times pertinent Redden knew that the truth is that ORCP Rule 4, C,D,I(2), quoted in **paragraph 30** above, provides for personal jurisdiction of Hartford. Further, Redden knew that the general appearance of Hartford in making its motion for attorney fees waived any claim that the court lacked personal

jurisdiction. The fraudulent dismissal of Hartford because of no contact with the plaintiff in Oregon is related to frauds and collusion addressed above.

(15) Pursuant to conspiracy, and inconsistent with his claim of no personal jurisdiction of Hartford, Redden, on page 6 of EXHIBIT L in reference to Hartford, fraudulently ruled the **"complaint"** is barred by **statutes of limitation.** Pursuant to conspiracy, Redden fraudulently directed his holding to the null and void "complaint." If Redden believed that there was no personal jurisdiction in the state court prior to the bogus removal or by its appearances in the federal court he could legally proceed no further. Pursuant to conspiracy he made additional rulings as to why the action is dismissed as to Hartford to slander the lawsuit and to illegally threaten the plaintiff with "sanctions" if

the plaintiff again seeks remedy in any way for acts alleged in EXHIBIT A. The statement that the action is barred by statutes of limitations is as fraudulent as his other acts. Pursuant to conspiracy, Redden presented fraudulent "findings" upon which to fraudulently claim basis for his opinion and dismissals. **Pursuant to conspiracy Redden did not make the essential findings as to when the statutes of limitations commenced running and when the lawsuit was commenced. Redden knew that he had no competent evidence before him as to when the initial complaint was filed in the state court** upon which to base any claims concerning statutes of limitation. Pursuant to conspiracy, Redden fraudulently cited ORS 12.110(1) which is a two year statute of limitations for any injury to the person or rights of another. An issue is when such a statute commences

to run. At all times pertinent defendants and Redden knew that in the instant case alleging conspiracy and alleging acts causing one indivisible injury statutes of limitation did not start to run until the last alleged act, May, 1986. (paragraph 53 of EXHIBIT A). Other acts cited in EXHIBIT A, paragraph 35 (June 15, 1984), paragraph 38 (July 18, 1984), were clearly within the 2 year period with the action of EXHIBIT A being commenced June 3, 1986. Pursuant to conspiracy, Redden disregarded the allegation of paragraph 52 (b) in which the plaintiff alleged damage from illegal closure of Courts in Colorado where the corresponding statute of limitations is 6 years. That fact is an issue for the jury since Redden fraudulently cut off acts prior to two years in conflict with legal precedence regarding conspiracy and acts producing one indivisible injury. Pursuant to

conspiracy, Redden fraudulently cited ORS 659.045(1) entitled, "Complaints of discrimination in housing or in place of public accommodation or in private vocational, professional or trade school." The reference to that statute is completely inappropriate and an insult. Pursuant to conspiracy, Redden fraudulently cited ORS 12.115(1) which is addressed in **paragraph 45** above. Redden knew that the statute barring claims for negligent acts after 10 years is inapplicable to the claims of EXHIBIT A because they are for damage caused by intentional acts, not negligent ones. In breaking down the complaint into parts and not considering the totality of the conspiracy, **Redden deceitfully did not mention ORS 12.080(1) which is six years for actions on contract.** Breach of insurance contract by Hartford occurred on March 6, 1981, alleged in paragraph 42 of

EXHIBIT A which was clearly within that statute of limitation, and now subject of damages of this complaint due to 6 years having now passed due to obstruction of justice. Pursuant to conspiracy, Redden did not mention that the statute of limitations for civil rights actions, the third claim for relief, is six years in Oregon. Clark v. Musick, 623 F2d 89 (9th Cir, 1980); Plummer v. Western International Hotels Co., Inc., 656 F2d 502 (9th Cir, 1981). Pursuant to conspiracy, he falsely and fraudulently claimed the entire "complaint" is barred by the two year statute cited.

(16) Pursuant to conspiracy, on page 6, EXHIBIT L, in reference to Hartford, Redden dismissed the 1st and 3rd claims "because they fail to state a claim upon which relief can be granted as to this defendant." Pursuant to conspiracy, that dismissal was fraudulently directed to the

null and void complaint and not the amended complaint. It is fraudulent also in that Hartford as a coconspirator with judges is responsible for acts violating the plaintiff's civil rights under color of Colorado state law, which principle Redden knew was pronounced by the U.S. Supreme Court in Dennis v. Sparks, 101 S.Ct. 183, 449 U.S. 24, 66 L.Ed.2d 185 (1980).

(17) In reference to defendant Craig, pursuant to conspiracy Redden deceitfully stated, "Ms Craig was law clerk to Judge Ruland ... All claims brought against her in this case arise out of actions which allegedly occurred by virtue of this employment." Redden's statement is deceitful in that it implies but does not rule that Craig was acting within her employment when she acted in Oregon, pursuant to conspiracy. Redden's dismissal as to Craig based upon judicial

immunity is fraudulent and he knew that it was in direct conflict with holdings by the U.S. Supreme Court in Nevada v. Hall, 440 U.S. 410, 99 S.Ct. 1182, 59 L.Ed.2d 416 (1979) and the Colorado Court of Appeals which adopted its holdings including, "...sister states who engage in activities within California are subject to our laws with respect to those activities and are subject to suit in California courts with respect to those activities. ... state sovereignty ends at the state border." Peterson v. State of Texas, ___Colo App___, 635 P2d 241,242 (1981). Redden knew that Judge Ruland had no jurisdiction whatsoever to act in Oregon and consequently on its face had no judicial immunity for acts committed in Oregon; and Redden knew that Craig had no immunity for acts she committed in Oregon derived from working for a Colorado judge. Pursuant to conspiracy, Redden

fraudulently stated, "... dismiss... plaintiff's failure to provide notice and file within the applicable statute of limitations." Pursuant to conspiracy, Redden deceitfully did not state the notice to which he referred and to which statute of limitation he relied upon. Redden knew that the Colorado notice requirements and statute of limitations concerning suing employees of the state of Colorado is part of its "Colorado Governmental Immunity Act" which is not applicable to lawsuits in Oregon courts for acts committed in Oregon or so connected with Oregon as to give jurisdiction to Oregon courts. Redden knew that state governmental immunity acts are derived from the doctrine "that no sovereign may be sued in its own courts without its consent, but it affords no support for a claim of immunity in another sovereign's courts," as ruled by the U.S.

Supreme Court in Nevada v. Hall, supra, at 440 U.S. 416. Redden also knew that no notice required by Colorado state law was required prior to bringing action based upon 42 USC s.1983, the plaintiff's 3rd claim for relief. Redden knew that statutes of limitations for the 3rd claim for relief based upon 42 USC s.1983 clearly did not begin to run until the date of the last act committed pursuant to the conspiracy, and that the statute of limitations for that claim is 6 years in both Colorado and Oregon. Pursuant to conspiracy **Redden deceitfully did not make the essential findings as to what statute of limitation applied, when it began to run, and when the lawsuit of EXHIBIT A was commenced**, and Redden knew that all of those findings are essential to claim bar by expiration of statutes of limitation.

(18) Pursuant to conspiracy, Coconspirator Judge Redden allowed

withdrawal of appearances and then dismissed as to 8 Colorado judges who were not served summonses and complaints. This allowance of withdrawal of general appearances pursuant to conspiracy was without legal justification. Those judges by and through their attorney Carter, defendant herein, entered general appearances in the state court on July 9, 1986. Pursuant to conspiracy, on July 21, 1986, they fraudulently entered general appearances in the federal court knowing it lacked jurisdiction. Pursuant to conspiracy, Redden fraudulently stated in EXHIBIT L on page 7, lines 13-17, "They then learned that the case had been removed to federal court and moved for an extension of time within which to respond to the amended complaint which had just been filed. They indicate that they were uncertain at that time which defendants had actually been served with the amended

complaint." First, this being the only recognition of the existence of the amended complaint in the opinion, it clearly reveals that Redden knew that Carter knew that it was the amended complaint to which he must respond, a fact only if the bogus petition was filed in the state court after the amended complaint had been filed. It was in that appearance by motion that Carter and the judges he represented stated, "Also these defendants are uncertain as to the **status of an amended complaint** ..." (The motion was granted by Redden July 24, 1986.) In a supporting affidavit, Carter stated he learned that the plaintiff had filed an amended complaint before he learned that "this matter had been removed..." Redden knew that his statement as to lack of knowledge as to which ones had been served the amended complaint is irrelevant. Pursuant to conspiracy, Redden

fraudulently stated, EXHIBIT L, page 7, lines 22-23, "Plaintiff was served with the motion to withdraw on August 4, 1986, and still has not served these defendants." Redden and the defendant Colorado judges seeking withdrawal of appearances, and all defendants herein, knew that the plaintiff had a right to rely upon the general appearances in the state court as waiving requirement of service of summonses and complaints, an expensive, time consuming process. Pursuant to conspiracy, the motion to remand by the plaintiff was not denied until October 17, 1986. Any service of summonses and complaints could have caused jurisdiction in the federal court which was not the court the plaintiff rightfully chose as the proper forum. Coconspirator Redden and all defendants herein knew that the unlawful motion and threat to award attorney fees was submitted by Hartford

and its attorneys on October 8, 1986. As noted above, as a proximate result of that illegal threat and coconspirator Redden's maintaining and encouraging it pursuant to conspiracy, the plaintiff did not act any further in the federal court.

(19) Pursuant to conspiracy, on page 8 of his opinion, EXHIBIT L, Judge Redden acting on motion to dismiss the null and void "complaint," of which he had only an alleged non-certified copy, fraudulently dismissed as to served Colorado State judges. Pursuant to conspiracy, he dismissed under pretext of lack of personal jurisdiction, no notice under Colorado Governmental Immunity statutes, judicial immunity, and "applicable" statutes of limitation. Pursuant to conspiracy, and representative of the low calibre of deceit, Redden outrageously, falsely, and deceitfully stated on lines 18-20, page 8 of EXHIBIT L, "Dr. Tyler

alleges that he has been damaged as a result of a conspiracy beginning in 1974 and the claim was commenced in 1986." At all times pertinent Redden knew that the conspiracy did not begin in 1974 and that at no time did the plaintiff ever allege when any conspiracy began, and when it began was deceitfully injected and is irrelevant to the statutes of limitation and at all times coconspirator Judge Redden knew that. At all times Redden knew that the date of the last act, not the first act, is the date statutes of limitation concerning conspiracy begin to run. Pursuant to conspiracy Redden deceitfully used the date "1974" and the vague date "1986." Pursuant to conspiracy Redden deceitfully did not make the essential findings as to **what statute of limitation applied, when the statute began to run, and the date certain that the lawsuit of EXHIBIT A was commenced.** At

all times pertinent he knew that he did not even have legal evidence that it was commenced in 1986 as he determined.

(20) Pursuant to conspiracy Judge Redden on page 9 of EXHIBIT L dismissed as to **Judges Finesilver, Seth, McKay, and Logan. The fraudulent dismissal** is the result of a legally inadequate motion with the only identification being "Defendants, four federal judges," filed in the federal court pursuant to conspiracy by coconspirators Turner and Kobbervig on August 11, 1986. Pursuant to conspiracy the motion didn't mention the complaint or the amended complaint. Pursuant to conspiracy the **accompanying memorandum was directed deceitfully to the null and void "complaint."** Their motion was supported only by deceitful argument and **not by any affidavits. No legal evidence was submitted to counter the allegations of actions pursuant to conspiracy.** Pursuant

to conspiracy, this fraudulent and illegal dismissal as well as those of Colorado state judges by Redden, coconspirator of defendants herein, was knowingly done in direct conflict with holdings by the Ninth Circuit Court of Appeals, which supervises the U.S. District Court of the District of Oregon. At all times pertinent herein, Redden knew that it held in Rankin v. Howard, 633 F.2d 844, 847-848 (9th Cir 1980) "Although a party conniving with a judge to predetermine the outcome of a judicial proceeding may deal with him in his 'judicial capacity,' the other party's expectations, i.e., judicial impartiality, is actively frustrated by the scheme. In any event, the agreement is not 'a function normally performed by a judge.' It is the antithesis of the 'principled and fearless decision-making' that judicial immunity exists to protect. ... We conclude that a judge°s private,

prior agreement to decide in favor of one party is not a judicial act. ... If the alleged agreement manifests Judge Zeller's participation in a conspiracy, then proof of the agreement could form the basis of liability ..." The foregoing was that court's interpretation of Stump v. Sparkman, 435 U.S. 349 (1978), which Redden fraudulently cited as pretext for his illegal dismissals.

(21) Dismissals of defendants not served, EXHIBIT L, page 9, lines 21-22, was done unlawfully pursuant to conspiracy. This was done pursuant to conspiracy intentionally to illegally deny the plaintiff any right to public trial of any part of the lawsuit of EXHIBIT A which would be the expected result if Redden remanded the case to the state court. Not being served summonses and complaints, Redden had no personal jurisdiction of those defendants as enunciated in Rankin

v. Howard, 633 F.2d 844 (9th Cir, 1980), and at all times pertinent Redden knew that. At all times pertinent Redden knew that with lack of personal jurisdiction he had no jurisdiction at all of those parties and that he had no authority whatsoever to dismiss them and it was particularly oppressive to dismiss as to them "on the merits."

54.

Coconspirator Judge Redden's opinion, EXHIBIT L, in all its important parts and in its entirety are connected to aforementioned fraudulent acts of defendants herein and each of them pursuant to conspiracy and is the result of fraud and collusion. By his act of issuing the aforementioned opinion and illegal orders of dismissals and illegal entry of judgment pursuant to conspiracy, Redden, knowing he was acting without jurisdiction, intentionally obstructed,

impaired and hindered the administration of law and judicial function by means of economic interference or obstacle in violation of ORS 162.235, and as a proximate result of those illegal and criminal acts committed pursuant to conspiracy the plaintiff was injured and damaged as herein alleged.

55.

Pursuant to conspiracy, on March 3, 1987, Redden set a hearing for March 26, 1987, "on Hartford's motion for atty fees and costs." Pursuant to conspiracy, Redden ordered judgment of dismissal entered against the plaintiff March 9, 1987. Pursuant to conspiracy the motion to award defendants attorney fees and costs remained as a continuing outrageous threat against the plaintiff as an extortion to prevent appeal and action by the plaintiff in the state court in the case of EXHIBIT A.

All defendants and named coconspirators knew at all times pertinent that the jurisdiction was still in the state court and pursuant to conspiracy they outrageously sought illegal termination of the case through coconspirator Elden, who as Assistant Attorney General for the State of Oregon could act criminally and expect no civil or criminal accountability, and through his providing pretext for illegal dismissal by coconspirator Judge Yraguen, who as a judge is not in reality subject to civil or criminal law. On March 16, 1986, pursuant to the total conspiracy subject of this complaint, coconspirator Elden wrote a letter to coconspirator Judge Yraguen received by him, copy appended hereto as **EXHIBIT P.** The letter falsely and fraudulently stated that the case had been removed to the federal court and

dismissed and that there was "nothing left to accomplish in Malheur County." Without any legal evidence before him, without a motion or other legal reason to act, without notice or hearing, without due process of law, and inconsistent with claim that the case was removed to the federal court, Judge Yraguen acted pursuant to the conspiracy as a coconspirator and illegally dismissed the case of EXHIBIT A, copy of order appended hereto as **EXHIBIT Q.**

57.

Pursuant to conspiracy, on March 26, 1987, Judge Redden granted the motion of Hartford Insurance Group to order the plaintiff to pay its attorney fees and costs. The written opinion by Judge Redden, copy appended as **EXHIBIT R**, is replete with false fraudulent statements. Knowingly acting without jurisdiction of the lawsuit and without jurisdiction of

the plaintiff, Redden started with false characterizations of defendants and fraudulent omissions of characterizing other defendants. He again avoided stating a date that the case of EXHIBIT A was commenced, and falsely fraudulently stated that it was removed to the federal court on July 3, 1986. He fraudulently covered that the hearing February 6, 1987, was ex parte and unethical by noting that provision was made for the plaintiff to appear by telephone. Further, the judge concluded that the plaintiff's lack of appearance made no difference (page 3, lines 17-19, EXHIBIT R,) which it must be presumed was correct inasmuch as the results of motions had been determined beforehand illegally through conspiracy. In his quote of Rule 11, FRCP, on page 4, EXHIBIT R, Redden fraudulently omitted the key sentence of the elements for which sanctions are permitted. That sentence

is, "The signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion, or other paper; that to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation." (emphasis added). Accordingly, pursuant to conspiracy, Redden, made no findings of violation of those essential elements of Rule 11 by the plaintiff. The rule is highly punitive, is in conflict with the common law which provides trial by jury for alleged abuse of process or malicious prosecution, and all defendants herein and coconspirators knew at all times pertinent

that Rule 11 requires strict interpretation. Sanctions are connected to the signing of pleadings. At all times pertinent herein, Redden and all defendants and all named coconspirators herein knew that the bogus document claimed to be a copy of a complaint filed in the federal court by Turner and Kobbervig before the federal court was not signed by the plaintiff. The signed complaint and amended complaint were filed in the state court. On page 5, lines 7-8, EXHIBIT R, Redden knowing it was false, falsely and fraudulently stated that the "plaintiff has brought virtually identical suits containing the same allegations and regarding the same series of events numerous times in Colorado." Any and all references to other lawsuits by Redden are without legal evidence. Redden had no certified records of other court proceedings before him. Redden's

statement was deceitful in that claims and defendants were different which is obvious to anyone reading the complaint or amended complaint. In presenting the conspiratorial remarks of Finesilver, Redden fraudulently omitted the facts that Finesilver found that the referred to complaint stated a cause of action and that Finesilver illegally dismissed the case because the plaintiff refused to post the $48,000.00 bond that Finesilver illegally ordered pursuant to conspiracy. Redden fraudulently omitted the fact that Finesilver was a named defendant in the case of EXHIBIT A for that illegal dismissal and denial of plaintiff°s Constitutionally guaranteed right to trial. At all times pertinent all defendants and coconspirators named including Redden knew that if there is claim of prior conclusive litigation that the proper procedure is to answer the

complaint and plead the defense of res judicata or collateral estoppel, and that it is inappropriate to decide such issues by way of Rule 11. Redden and all defendants and named coconspirators knew at all times pertinent that determination of collateral estoppel or res judicata requires the complete record in evidence of proceedings of the case upon which the claim is based. None of the records of other cases were in evidence before Redden. In truth, Redden and other conspirators including Hartford knew that collateral estoppel and res judicata require identical parties, facts, issues, and proofs in each case and proof that the issues were actually litigated. They knew that those defenses were not applicable to EXHIBIT A. They also knew that the plaintiff could rightfully attack any judgment which was the result of fraud and collusion. Redden, knowing it was false,

falsely and fraudulently stated on page 6, lines 1-2, EXHIBIT R, "(the plaintiff) has once again brought suit against this defendant in a manner that does not comply with Fed. R. Civ. P. 8 (a)." That rule concerns "General Rules of Pleading" in the U.S. District Courts. First, in truth, Hartford Insurance Group was not a defendant in any case brought by the plaintiff in a federal court subject to Federal Rules of Civil Procedure. Second, and more significant, the complaint and amended complaint of the case of EXHIBIT A were filed in the state court and not subject to federal rules of civil procedure. Pursuant to conspiracy, Redden knowing it was false, falsely and fraudulently stated "The complaint in the instant action is also virtually unintelligible and contains claims and allegations virtually identical to those that were dismissed and stricken in the

previous actions." Redden falsely and fraudulently refers to the non-certified copy of the null and void complaint filed by Turner and Kobbervig, lawfully replaced by an amended complaint by the plaintiff. In truth, no defendant answered that they could not understand the allegations. To the contrary, all served defendants submitted motions that revealed that they understood the allegations. Defendants and coconspirators including Redden at all times pertinent knew that all that is required as to intelligibility is that allegations can be admitted, denied, or answered that due to lack of information they are denied as pronounced in Ehrman v. U.S., 4 FRD 29 (NY, 1941). To meet the requirement of subjective intelligibility to conspirator judges is apparently an impossibility. Pursuant to conspiracy, Redden has punished the plaintiff for not writing a complaint in a manner which

meets his approval, and without finding any culpable intent. In truth, this is another of the examples of fraudulent illegal misuse of rules of procedure, not subject to public scrutiny, to illegally deny the plaintiff right to trial and another example of use of courts to steal his property and money. Redden's fraudulent claim that the action of EXHIBIT A contains the same allegations as in prior lawsuits is false and Redden at all times pertinent knew it was false. Redden fraudulently omitted the fact that the plaintiff was illegally denied right to trial or right to appeal lawsuits to which he apparently referred. Knowing it was false and fraudulent, Redden stated on page 6, lines 7-10, EXHIBIT R, "The allegations contained in this complaint are, as were they in the prior lawsuits, barred by applicable statutes of limitations as I noted in my Order of

February 6, 1987." Redden and all other defendants including Hartford knew that a plaintiff is not required in his commencing a lawsuit to anticipate defenses a defendant might claim such as statutes of limitation. In truth, Finesilver and his coconspirators were being sued in EXHIBIT-A for not following established Colorado law concerning statutes of limitation, and for dismissal of the referred to case pursuant to fraud and conspiracy. Redden's false and fraudulent findings of bar by Oregon statutes of limitation are addressed above. Inasmuch as claims by virtue of 42 U.S.C. s.1983 are subject to 6 year statutes of limitation which by federal law and precedence commence only after the last act of a conspiracy, Redden, knowing it was false, falsely and fraudulently stated, "Plaintiff has again made a claim pursuant to 42 U.S.C. s.1983 without

alleging facts indicating that the defendant acted under color of law." Redden fraudulently avoids the fact that defendant Hartford was clearly alleged to be a conspirator with state judges and with Finesilver who acted under color of state statutes. In addition to other false statements, Redden stated on page 6, lines 15-16, EXHIBIT R, "Moreover, plaintiff continues to include disparaging remarks about the defendants and their counsel." In truth, all disparaging remarks made were justified and necessary for stating the claims upon which lawsuits by the plaintiff have been commenced. No one has denied the truth of disparaging statements made by the plaintiff or stated which disparaging statements to which they took offense. After finding without legal evidence that the plaintiff is an attorney, Judge Redden insultingly, falsely, fraudulently, and ambiguously

stated, "I find that plaintiff's pursuit of this lawsuit was and is legally unreasonable and that this lawsuit is without factual foundation." The plaintiff has good reason to believe that in an honest public trial with fact finding by a jury as guaranteed in amendments to the U.S. Constitution that he will prevail. Repeated denial of right to trial, frauds, and alterations and destructions of evidence, including illegal, criminal alterations of transcripts of hearings and the docket of filings in the U.S. District Court for the District of Oregon for which Judge Redden is responsible, are admissions that the plaintiff would have won the lawsuit of EXHIBIT A in public trial by jury. Pursuant to conspiracy, Redden knowing it was false, falsely and fraudulently concluded, "The fact that these filings force the defendant to once again appear

and defend itself against meritless claims which are inarticulately framed supports the motion for sanctions." (emphasis added). Redden fraudulently does not identify the "filings" to which he refers or where they were filed by the plaintiff. The bill submitted for attorney fees fraudulently includes time prior to any filing of any documents in the federal court by the plaintiff, and the sanctions appear directed to the void complaint filed by the plaintiff only in the state court. Furthermore, in truth, Redden knew that a legitimate subject matter of the lawsuit of EXHIBIT A was Hartford°s corruption of the state and federal courts of Colorado.

58.

Copy of the illegal order to the plaintiff to pay Hartford's attorney fees and costs, an order obtained and issued through fraud and collusion, is appended hereto as

EXHIBIT S. Copies of the Judgment in the amount of $4,976.41 and the filing of it in Malheur County pursuant to conspiracy are appended as EXHIBIT T.

59.

The aforementioned conduct and each and all of the acts and accumulated and together, of each and all defendants, and by coconspirators for which defendants and each of them are responsible, committed jointly and separately, and committed and being committed pursuant to a continuing conspiracy, were and are outrageous in the extreme and they were committed intentionally for the purpose of causing the plaintiff to suffer severe emotional distress and to thereby obstruct justice in the lawsuit of EXHIBIT A in which the plaintiff had an interest.

60.

The aforementioned conduct and accumulated acts and each of them committed by the

defendants and each of them and pursuant to conspiracy,and by coconspirators of the defendants and each of them for which defendants and each of them are responsible and liable, proximately caused and continue to cause the plaintiff to suffer severe emotional distress, mental suffering, and other damage as alleged herein.

61.

The defendants and each of them conspired to commit crimes and committed crimes aforementioned pursuant to conspiracy proscribed by the following provisions of Oregon Revised Statutes: ORS 162.065, 162.085, 162.235, and 166.720, and their coconspirators pursuant to the conspiracy subject of this complaint violated ORS 162.295, 162.305, and 162.415, for which the defendants are responsible and liable.

The defendants in and by their aforementioned acts and pursuant to conspiracy engaged in a pattern of racketeering activity defined by ORS. 166.715. The defendants and each of them and pursuant to conspiracy engaged in more than two incidents of racketeering conduct that had the same or similar intents, results, accomplices, victims and methods of commission and are interrelated and not isolated incidents. The many violations of criminal statutes aforementioned were each and all of them acts of racketeering conduct by defendants and each of them acting pursuant to conspiracy which were intended to and resulted in criminal obstructing, hindering, and impairing administration of law and judicial function that were intended to harm one victim, the plaintiff, who was proximately injured and damaged from such racketeering

activity.

63.

Defendants and each of them knowingly received money in the form of salaries and fees for service for and derived from the foregoing racketeering activity.

64.

The foregoing racketeering activity of the defendants and in violation of ORS 16.720 (1) and of part (4) by conspiring to violate ORS 166.720(1) proximately caused the plaintiff damages as herein alleged, and plaintiff is entitled to three-fold the actual damages, punitive damages, attorney fees in trial and appellate courts and costs of investigation and litigation.

65.

The aforementioned fraudulent acts that occurred in the federal court or were connected thereto are extrinsic fraud to the action of the case of EXHIBIT A

because on the face of the record the federal court had no jurisdiction of the case and the jurisdiction of the case was at all times pertinent in the state court. Conspiracy between defendants herein and Judge Redden and fraudulent use of legal proceedings in the U.S. District Court for the District of Oregon is extrinsic fraud. Furthermore, the threat of illegal order by a coconspirator judge to the plaintiff to pay defendants' attorney fees was extrinsic fraud that illegally prevented the plaintiff from responding in the federal court to the aforementioned fraudulent acts committed by the defendants herein. The plaintiff was deprived his right to appeal in state and federal courts because of the illegal, fraudulent, oppressive threat to award defendants attorney fees. Aforementioned acts of defendants, being extrinsic fraud, are properly subject of this lawsuit.

Issues of this case could not and cannot be determined by appeal and can only be determined by a public trial by jury.

66.

Each and all of the aforementioned fraudulent acts of each and all defendants and named coconspirators have proximately caused the plaintiff loss of time and money **not subject to remedy by appeal** of the case of EXHIBIT A, **even if appeal had been available and which was not available**, including but not limited to his time and work as his own attorney, time and cost to travel several times to and from Vale, Oregon, from Ontario, Oregon, a one-way distance of 16 miles to obtain copies of documents filed in the Circuit Court of the State of Oregon for the County of Malheur and for use of its limited law library, time and cost to travel several times to and from Boise, Idaho, from Ontario, Oregon, a one-way

distance of 55 miles, to a law library for research, loss of time expended on legal research and writing, costs of copies of statutes, case reports, and other documents, and loss of time and money expended for trips to and from Portland, Oregon, a one-way distance of 375 miles from Ontario, Oregon, which required two nights' lodging and three days' food for each trip, as well as automobile expenses. The damage proximately caused by defendants includes but is not limited to denial of the plaintiff the benefit of ORS 12.020 (2) which provides that defendants served within 60 days of filing of the complaint will be considered to have had action commenced against them as of the date of the filing of the complaint. As a proximate result of the aforementioned acts by defendants and each of them, statutes of limitation have expired for plaintiff's right to initiate a separate

independent action against Hartford for breach of its insurance contract with the plaintiff. The foregoing acts by the defendants have proximately caused the plaintiff loss of time, earnings, liberty, enjoyment of the use of moneys in compensation for claims of EXHIBIT A, and enjoyment in living. The extremely outrageous acts of defendants herein have proximately caused the plaintiff severe emotional distress and mental suffering. None of those damages could have been or could be compensated for by appeal of the case of EXHIBIT A even if appeal was available and which was not and is not available.

67.

As a proximate result of the foregoing acts committed by the defendants and each of them and by their coconspirators pursuant to conspiracy, the plaintiff was illegally and wrongfully denied his right

to trial of the case subject of EXHIBIT A and was injured and damaged as herein alleged.

68.

As a proximate result of the foregoing acts committed pursuant to conspiracy, the defendants herein are liable for all acts and damages proximately caused by acts cited in EXHIBIT A.

69.

The foregoing acts and each of them committed pursuant to conspiracy by defendants and each of them and by their coconspirators for which defendants and each of them are responsible and liable proximately caused the plaintiff loss of time and money in an amount exceeding $600,000,000.00 and other special damages.

70.

The foregoing acts and each of them committed by defendants and each of them and by their coconspirators for which

defendants and each of them are responsible and liable proximately caused the plaintiff severe emotional distress and mental suffering in the amount of $20,000,000.00.

71.

The aforementioned acts and each of them committed by the defendants and each of them were committed maliciously, intentionally, willfully and wantonly, and in reckless disregard of the rights and feelings of the plaintiff, and the plaintiff is entitled to exemplary and punitive damages.

WHEREFORE, plaintiff prays for remedy and relief from the defendants and judgment jointly and severally as follows:

1. Special damages in the amount of $600,000,000.00,

2. General damages in amount of $20,000,000.00,

3. Treble the aforementioned $620,000,000.00 actual damages,

4. Costs of suit,

5. Attorneys' fees,

6. Interest,

7. **AND EXEMPLARY DAMAGES** from each of the defendants as follows:

8. One billion dollars ($1,000,000,000.00) from Hartford Insurance Group,

9. $5,000,000.00 from Yturri, Rose, Burnham, Ebert and Bentz,

10. $5,000,000.00 from Anthony Yturri,

11. $5,000,000.00 from Carl Burnham, Jr.,

12. $5,000,000.00 from Teresa J. Hutchens,

13. $5,000,000.00 from Cliff S. Bentz

14. $5,000,000.00 each from each of the insurance company defendants other than Hartford.

15. $2,000,000.00 each from each of the other defendants.

16. And other appropriate relief.

PLAINTIFF DEMANDS A JURY TRIAL OF ALL ISSUES HEREIN

By (signed)

Donald E. Tyler, M.D.,
PLAINTIFF, pro se
1092 S.W. 2nd Ave.
Ontario, OR 97914
telephone (503)-889-5109

AFFIDAVIT

I, Donald E. Tyler, M.D., the plaintiff in this action, being duly sworn do hereby declare under oath that to my knowledge and belief all allegations in the foregoing complaint are true.

By (signed)

Donald E. Tyler, M.D. AFFIANT

STATE OF OREGON)
County of Malheur) ss.

The foregoing was sworn to and subscribed

to before me by DonaldE. Tyler, M.D., in Ontario, Malheur County, Oregon, this 28 day of April, 1987. (signed) NOTARY PUBLIC

My commission expires: (dated) (seal)

EXHIBITS OF COMPLAINT

EXHIBIT A,

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR MALHEUR COUNTY, DONALD E. TYLER, M.D. v. HARTFORD INSURANCE GROUP, SHERMAN G. FINESILVER, OLIVER SETH, MONROE G. MCKAY, JAMES K. LOGAN, WILLIAM ERICKSEN, DONALD P.SMITH, JR., A.M. KELLY, E.P. VAN CISE, JUDGE TURSI, EDWIN G. RULAND, ALAN L. STERNBERG, HARRY S. SILVERSTEIN, JR., MAC V. DANFORD, PHILIP F. ROAN, HARLAN R. BOCKMAN, DEAN JOHNSON, JEAN J. JACOBUCCI, MARVIN W.FOOTE, ANTHONY F. VOLLACK, STEPHEN D. DAWSON, DEBBIE FREEPONS CRAIG, PETER PRYOR, THOMAS L. ROBERTS, JOHN MOTT, PAUL D. RENNER, JOHN R. RODMAN, FRANK R. KENNEDY, PAUL

D.COOPER, DONALD E. LA MORA, SHERMAN AND HOWARD LAW FIRM, MICHAEL A. WILLIAMS, KENNETH B. SIEGEL, ELLEN W.REATH, ROGER F.JOHNSON, ROBERT RUDDY, CARL R. KOSTOL, M.D., ALLAN L. FERRIN, M.D., DAVID E. REID, D.O., AND HOWARD I. BOBBITT, Defendants. No. 86-06-20969-L AMENDED COMPLAINT (Tort- damage to business and personal injury) Filed 8:33 A.M. Jul 7, 1986.

Plaintiff submits this AMENDED COMPLAINT prior to responsive pleading.

1.

The plaintiff complains of defendants jointly and severally, and for cause of action alleges:

I. FIRST CLAIM FOR RELIEF: COMMON LAW REMEDY FOR UNLAWFUL AND WRONGFUL INTENTIONAL INTERFERENCE WITH BUSINESS AND PURSUANT TO CONSPIRACY

2.

Acts subject of this complaint occurred in

Ontario, Malheur County, Oregon, and in Colorado.

3.

Conspirators include persons acting under color of office of judges of district, appellate, and supreme courts of the State of Colorado, and persons acting under color of police officers of Brighton, Colorado. They and judges of federal district and appellate courts in Colorado acted under fraudulent color of various Colorado State Statutes.

4.

The defendants herein and each of them are responsible for all of the wrongful acts alleged herein and by reference regardless of who committed them or where they were committed.

5.

Prior to plaintiff's applying for medical staff membership in Brighton Community hospital (BCH) in 1968, the hospital

administrator of that hospital illegally invaded the privacy of the plaintiff pursuant to the conspiracy subject of this complaint by special inquiries to various places concerning the single marital status of the plaintiff.

6.

Pursuant to conspiracy subject of this complaint, physicians, nurses, and hospital employees at BCH outrageously tried unsuccessfully to trap the plaintiff and even resorted to jeopardizing lives of patients appearing at the emergency room in order to evoke a display that could be deceitfully used against the plaintiff.

7.

Pursuant to conspiracy subject of this complaint, disciplinary hearings concerning the plaintiff were scheduled in Brighton Community Hospital in 1974 without charges or any justifiable reason, but for the malicious reason of unlawfully

damaging the plaintiff irreparably in his practice of medicine and outrageously to intentionally cause him emotional distress.

8.

Exercising his only means of preserving his Constitutionally guaranteed right to notice of specific charges, which were denied him, the plaintiff did not attend aforementioned hearing, the outcome of which was pre-decided, and in breach of hospital bylaws the plaintiff was outrageously and maliciously removed from emergency room call duty without reason or charges only for the purpose of unlawfully damaging him in his practice of medicine and for insult and to cause him emotional distress when it was expected that he would be removed from it naturally in only 2 months after such service for 6 years, and plaintiff was then by deceitful, outrageously illegal means and purposes

denied reappointment to the hospital medical staff pursuant to the conspiracy subject of this complaint.

9.

Pursuant to and knowingly joining the conspiracy in progress, members of the Brighton Municipal Police Department maliciously harassed the plaintiff in his apartment.

10.

Pursuant to conspiracy herein, the District Attorney for Adams County in Brighton, Colorado, refused to prosecute conspirator Dr. Marks for libel when presented documentary proof of a prima facie case, and conspirators outrageously threatened plaintiff by informing plaintiff that the district attorney assured them that he would prosecute no one in connection with the entire conspiracy.

11.

Because of the aforementioned and other wrongful illegal acts committed against the plaintiff pursuant to the conspiracy subject of this complaint, plaintiff initiated several lawsuits in Colorado designed to enable him to practice medicine and without unlawful interference and to receive compensation for damages. Copies of complaints of pertinent suits are appended to the complaint as EXHIBITS A, B, C, D, and E (without some exhibits of the complaints consisting of many pages) and those EXHIBITS are incorporated herein pursuant to UTCR 2.010,(9); and acts and claims therein alleged are incorporated herein by this reference and damages proximately resulting therefrom are herein sought. They will be referred to herein as cases A,B,C,D, and E, respectively.

12.

Pursuant to conspiracy herein alleged, the plaintiff was falsely maliciously libeled in his profession by the Brighton Blade, the local newspaper, during trial of lawsuit "A" referred to and incorporated herein below, illegally denying plaintiff a fair trial.

13.

Fair trial of case A (consolidating two cases) was further illegally denied the plaintiff by defendant conspirators°

(a) unlawful intimidation of witnesses employed by the defendant hospital,

(b) wrongful suppression of legal evidence,

(c) ex parte deals and collusion between the trial judge, Dean Johnson, and named conspirator Larsen, and

(d) unethical closing argument by conspirator attorney.

14.

Plaintiff was illegally denied fair appeal of case A by outrageous fraudulent misquote of the letter subject of the libel action, and other frauds committed by judges of the Colorado Court of Appeals, defendants herein, in collusion and pursuant to conspiracy and who knew the falseness of their statements and knew that their misapplications of law were false.

15.

Further appeals of case A were deprived the plaintiff by the unlawful, malicious, intentional taking and destruction of trial exhibits during the appeal process by defendant judges of the Colorado Court of Appeals, such destruction also being ratified as their own. That illegal, unlawful destruction of the personal property of the plaintiff by defendants acting under color of state statutes and

offices pursuant to conspiracy subject of this complaint was not a judicial act.

16.

Judge Dean Johnson was assigned to preside over Case B by Judge Jean Jacobucci acting illegally and unethically with defendants Dawson, Renner, and Mott pursuant to conspiracy subject of this complaint.

17.

Pursuant to conspiracy, Judge Dean Johnsonissued insulting,damaging, outrageous, oppressive orders (that the Colorado Supreme Court ordered expunged from the record) and Defendant Johnson fraudulently dismissed Case B by summary judgment knowing it was an illegal act. These malicious, illegal acts proximately caused the plaintiff loss of time and money and other damage as herein alleged.

18.

Vital depositions of conspirator hospital administrator Vowell, conspirator Dr.

Marks, and of two other persons, one of which contained proof of illegal telephonic surveillance of the plaintiff by defendants herein in unlawful invasion of privacy of the plaintiff, were unlawfully stolen pursuant to the conspiracy subject of this complaint while in custody of the trial court.

19.

Pursuant to the conspiracy subject of thiscomplaint,

(a) reconstructed aforementioned 4 depositions and 46 other depositions, consisting of over 3000 pages of testimony, valuable property of the plaintiff, were selectively maliciously, illegally destroyed (while preserving depositions taken by defendants) in the Colorado Court of Appeals, (a taking of property without due process of law, under color of laws of the state of Colorado,

pursuant to conspiracy), by defendants herein during the appeal process initiated by plaintiff herein to reverse the unlawful fraudulent dismissal by summary judgment of Case B. Defendant judges of the Colorado Court of Appeals ratified as their own acts the taking and destruction of aforementioned property of plaintiff.

(b) That unlawful taking and destruction of the valuable property of the plaintiff by defendant judges was not a judicial act.

(c) Defendant judges, clerk Mac Danford, and other conspirators outrageously refused to provide plaintiff with his requested details of the destruction by conspirator defendants herein fraudulently falsely claimed to be due to negligence of third parties, whom they refused to identify, because of nonexistence, or whose acts they ratified as their own, along with other requested details to

cover up their criminal and tortious acts and in obstruction of justice.

20.

Pursuant to conspiracy subject of the instant lawsuit herein, communications to the plaintiff in Ontario, Oregon, by defendant Danford and defendant judges of the appeals court concerning destroyed exhibits and depositions were outrageous, oppressive, and even included criminal extortion.

21.

Pursuant to conspiracy herein alleged, defendants Craig, Danford, and judges of the appeals court acted outrageously and illegally to prevent proper legal reconstruction of destroyed depositions so as to make them legally useless in trial and to thereby encourage, promote, aid and abet perjury and non-appearances of witnesses at trial. Insulting, blatant, outrageous, unlawful acts by defendant

Craig, now a resident of Oregon, in such deceitful reconstruction were done in Colorado and in Ontario, Oregon, pursuant to conspiracy.

22.

The aforementioned malicious, illegal destruction of depositions pursuant to the continuing conspiracy subject of this action proximately caused the plaintiff loss of time and money, and other damage herein alleged.

23.

Pursuant to conspiracy, defendant judges in the appeals court fraudulently affirmed dismissal by summary judgment in Case B as to nurse conspirators and conspirators who were prominent citizen members of the board of directors of BCH knowing that such dismissal was illegal.

24.

Pursuant to conspiracy, Plaintiff was illegally denied fair trial of Case B by

(a) subornation of perjury by defendants Mott and Dawson (a member of the Oregon Bar), approved and condoned and ratified by conspirator Judge Marvin Foote, and
(b) immoral, illegal appeals to the jury to act against the plaintiff because of his minority religious affiliation by defendant Mott, an agent of defendant Hartford, and
(c) appeals to the jury by defendants herein because the plaintiff was not married,
(d) suppression of proper legal evidence,

and other fraudulent and unlawful acts by defendants herein.

25.

Jury verdict awarding the plaintiff $730,000.00 including punitive damages requiring proof beyond reasonable doubt and interrogatories finding conspiracy in Case B announced in open court with poli

of jury are appended hereto as EXHIBITS L and M of Exhibit D (Case D).

26.

Pursuant to conspiracy, plaintiff was illegally deprived the benefit of trial by jury and aforementioned verdict by

(a) jury tampering,

(b) fraudulent order of mistrial by conspirator trial judge Marvin Foote based upon an unauthenticated verdict form finding in favor of defendants accepted outside of court, a non-judicial act,

(c) orders concerning new trial motions by prejudiced, legally disqualified Judges Jacobucci and DeLaney acting without jurisdiction in collusion and unlawful conspiracy with defendants herein, outrageously and illegally condoned by members of the Colorado Supreme Court by fraud and by unlawful application of evidence outside the record, not presented in open court, and not subject to

examination by the plaintiff,

(d) and orders for new trial by defendant Foote after jurisdiction was exhausted in the trial court.

(e) Judges Delaney, Jacobucci, and Foote knew that they acted without jurisdiction and defendants acting with them, including agents of Defendant Hartford, knew that they acted without jurisdiction, and such acts were pursuant to conspiracy.

27.

Pursuant to conspiracy, plaintiff was illegally deprived appeal of trial of case B by

(a) purposeful, intentional concealment of reporter's notes taken of trial proceedings, outrageous report to plaintiff that aforementioned notes disappeared without explanation for such disappearance, reported move of that reporter out of state, refusal of conspirator trial court administrator to

supply plaintiff with reporter°s address, and

(b) illegal changes made pursuant to conspiracy in the remaining partial transcript of proceedings.

28.

Pursuant to conspiracy, trial judge of Case B, Defendant Foote, without withdrawal from the case, illegally made himself unavailable by non-judicial acts for motions and new trial, condoned and approved by defendant William Ericksen, issuing orders denying plaintiff his right to continuing jurisdiction by the same trial judge, proximately causing plaintiff loss of time and money and other damage alleged herein, acting under color of office of Chief Justice of the Colorado Supreme Court without jurisdiction and pursuant to conspiracy. Justice Ericksen and other defendants acting with him in conspiracy knew he lacked jurisdiction.

29.

Pursuant to conspiracy, defendant Judge Harlan Bockman set hearings in Case B, and conducted hearings without jurisdiction, knowing he lacked jurisdiction, and acted as presiding judge in face of challenge of his jurisdiction without producing any order directing him to preside over the case in a court of record.

30.

Acting without jurisdiction, defendant Judge Bockman maliciously and oppressively threatened and continued to threaten to dismiss case B under pretext that plaintiff in Oregon disobeyed orders by not appearing for hearings set to be heard by him (Judge Bockman) in Colorado. Judge Bockman then ordered settlement conference.

31.

Settlement conference conducted by defendant Judge Philip Roan resulted in

settlement of Case B as to Marks, Larsen, Vowell, and Brighton Community Hospital.

32.

with the exception of parties referred to in paragraph 31, David Grayson, M.D., and Orrel Daniel, Attorney, who have settled with the plaintiff, the illegal, unlawful denial of compensation and other remedy for the claims of Cases A,B,C,D,E, and F are incorporated herein against the defendants herein due to the conspiracy subject of this lawsuit.

33.

At aforementioned settlement conference of Case B, defendant Judge Philip Roan stated that he had received communications ex parte from defendants herein including Hartford and its attorneys.

34.

Acting unethically because of conducting settlement conference and without jurisdiction in Case E, which involves the

same conspiracy as Case B, Judge Roan, knowing that he lacked jurisdiction, set hearings to be heard in Colorado on June 15, 1984, of all pending motions in Case E including plaintiff's motion to compel discovery and defendant's motion to dismiss Case E, pursuant to conspiracy herein complained of. Notice of hearing was served plaintiff in Ontario, Oregon.

35.

Without notice to the plaintiff until he reached Colorado from Ontario, Oregon, on June 15, 1984, Philip Roan, acting unethically after conducting aforementioned settlement conference, and without jurisdiction, and pursuant to conspiracy, outrageously, fraudulently dismissed Case E on June 13, 1984, without hearing; and no hearing had in fact been intended or had been scheduled on his docket.

36.

Illegal dismissal of Case E by Judge Roan acting maliciously and without jurisdiction and pursuant to conspiracy proximately caused the plaintiff special and general damages subject of this complaint.

37.

Needless travel of the plaintiff proximately caused maliciously, oppressively, and outrageously without jurisdiction by Judge Roan by notice of hearings issued to plaintiff in Ontario, Oregon, when hearings were not intended, pursuant to conspiracy proximately caused the plaintiff loss of time and money and other damage as herein alleged.

38.

Pursuant to conspiracy subject of this complaint, plaintiff was illegally denied his right to fair impartial appeal of dismissal of Case E by a continuing

closure of courts in Colorado by

(a) the presence of conspirators as judges of the Colorado Appeal and Supreme Courts, and

(b) by unlawful and illegal intimidation of the Plaintiff in Ontario, Oregon, by abusive, illegal, and oppressive use by defendants herein of the Grievance Committee of the Colorado Supreme Court which pursuant to conspiracy subject of this lawsuit threatened plaintiff in Oregon with disbarment and other embarrassment and loss of valuable rights without reasonable or probable cause from January 6, 1984, until July 18, 1984, and then only after all cases pending involving the plaintiff had been disposed of and plaintiff assured them in telephone conversations from the assigned committee lawyer to the plaintiff in Ontario, Oregon, that no appeal was to be made from the illegal, outrageous

dismissal of Case E because of illegal, outrageous closure of the appellate courts to him.

39.

Pursuant to the conspiracy, and acting under color of state statutes, defendants Peter Pryor, Thomas L. Roberts, and Hartford supplied the Colorado Board of Medical Examiners

(a) deceitful, false information, which they knew was misleading, concerning the plaintiff about a collusive lawsuit brought against plaintiff Tyler by persons acting in conspiracy with Hartford referred to below.

(b) They also maliciously supplied prejudicial information to the Colorado Board of Medical Examiners about lawsuits by Tyler as plaintiff against Hartford due to its conspiratorial contract with the Colorado Medical Society designed to illegally obstruct justice in all medical

malpractice cases and cases against hospital and medical society committees and which violated federal antitrust laws, subject of Case D.

40.

The members of the Colorado Board of Medical Examiners, pursuant to conspiracy subject of this complaint, unlawfully and outrageously intimidated and threatened and continue to intimidate and threaten the plaintiff in his professional practice of medicine as a result of his rightful use of courts and his exercise of First Amendment and Fifth Amendment rights.

41.

Pursuant to conspiracy subject of this complaint, defendant Hartford and other defendants

(a) induced and acted in collusion with Elmer Cook who fraudulently commenced a lawsuit against Tyler, plaintiff herein, fraudulently falsely alleging $250,000.00

damages when defendants knew Cook's damages were not that much, that Tyler had not negligently caused Cook's damage, and when they knew that Tyler's relevant insurance coverage with conspirator Hartford Fire Insurance Company, a member company of the defendant Hartford Insurance Group, was limited to $100,000.00;

(b) and then defendant Hartford, acting in collusion with attorneys it hired, outrageously in breach of contract provided only color of defense and not proper defense of Tyler, plaintiff herein. Conspirators improperly fraudulently conducted defense of the case so that plaintiff herein, defendant in that case, would lose the case which was completely without merit, which conspirators knew, and it was clearly commenced after the statute of limitations had expired.

(c) Plaintiff had fulfilled all

conditions precedent concerning his insurance contract with Hartford referred to herein.

(d) Through the aforementioned collusive lawsuit, defendants herein outrageously attempted theft of plaintiff Tyler's money and the lawsuit was outrageously designed and conducted for the unlawful purpose of harassing, embarrassing, and damaging the plaintiff emotionally and with mental suffering to distract and intimidate him and cause him to not proceed with lawsuits against conspirators insured by Hartford and lawsuits against Hartford and the Colorado Medical Society.

(e) The collusive, conspiratorial lawsuit by Cook and Hartford was outrageously designed and conducted pursuant to conspiracy subject of this complaint to damage the plaintiff in his profession, to cause him emotional distress and mental suffering, and to cause him to lose time

and money.

42.

Aforementioned breach by defendant Hartford of plaintiff's insurance contract by instituting a collusive lawsuit, by refusing to provide proper defense, and by outrageous conduct related thereto including communications to the plaintiff in Ontario, Oregon, continued until it was necessary for the plaintiff to insist upon payment for settlement with Cook, on March 6, 1981.

43.

Aforementioned collusive lawsuit caused by conspirators herein proximately caused the plaintiff damage as herein alleged including damage in his profession, loss of time and money, and other damage as herein alleged.

44.

Because Plaintiff Tyler in Case B was suing Drs. Marks and Larsen who were

insured by Hartford,

(a) Hartford maliciously conspired with members of a committee of the Colorado Medical Society, subject of Case C, to harass and threaten plaintiff herein,

(b) which they did pursuant to conspiracy, and they requested to examine the private personal records of all patients cared for by plaintiff Tyler in hospitals, without pretext of concern with quality of care, their only jurisdiction, but under pretext to determine if the records were adequate for legal purposes in the hypothetical event that the plaintiff were sued at a time when there was no reason to believe that he would be sued.

(c) Pursuant to conspiracy, the members of the medical society committee maliciously, illegally, and without hearing recommended to Hartford that plaintiff's professional liability insurance not be renewed under pretext of the reason that he did not

respond to their illegal requests.

(d) Hartford then outrageously unlawfully conditioned renewal of plaintiff°s group professional liability insurance with Hartford upon Plaintiff Tyler's unethically granting Hartford permission to unethically examine personal medical records of all patients cared for by plaintiff in hospitals, in breach of privacy of all such patients and in breach of their contracts with plaintiff.

(e) The foregoing and other associated extremely outrageous illegal acts including libel of plaintiff by Hartford pursuant to conspiracy are subject of Case C, EXHIBIT C, claims of which are incorporated herein.

45.

As a proximate result of the foregoing outrageous conduct and outrageous condition for renewal of his insurance, the plaintiff's professional liability

insurance with Hartford was not renewed inDecember, 1977, forcing the plaintiff to terminate his practice of medicine in Colorado and proximately causing him loss of time and money, and other damage as herein alleged.

46.

Case C against Hartford and other co-conspirators, was dismissed by the trial court which was affirmed by the defendant judges of the Colorado Court of Appeals by collusion, conspiracy, and outrageous fraudulent acts including by trial judge Defendant Vollack who

(a) blatantly found and ruled that two obviously different documents are identical, feigning inability to read,

(b) suppressed evidence by illegal prohibition of discovery as a result of an unethical ex parte hearing with other defendants herein,

(c) fabricated facts,

(d) and fraudulently falsely applied rules and laws; and by defendant appeals court judges who

(d) fraudulently and illegally suppressed evidence in form of depositions of defendants,

(e) used evasive, fraudulent, deceitful affidavits submitted by defendants Hartford, medical society committee members, and

through attorney defendants herein, Pryor and Roberts,

(f) condoned, approved, and ratified the outrageous acts of defendant Vollack,

(g) deliberately, fraudulently made false statements of facts including false libel of the plaintiff in his profession, and

(h) fraudulently applied a statute designed to provide immunity for good faith acts (not intentional torts and conspiracy subject of the complaint) by members of hospital committees. Pursuant

to conspiracy and fraud induced by Hartford and its agents, defendants Pryor and Roberts, the defendant appeals court judges fraudulently applied that limited immunity statute to members of a medical society committee, not covered in the act, illegally fraudulently granting them complete immunity for their intentional, illegal, outrageous tortious acts, and pursuant to conspiracy affirmed dismissal.

46.

Case D was commenced against defendant Hartford and other conspirators in the U.S. District Court for the District of Colorado.

47.

Sherman Finesilver acting as judge, after correctly finding the complaint, EXHIBIT D, stated a cause of action, pursuant to the conspiracy subject of this complaint, oppressively and fraudulently ordered the complaint stricken and provided the

plaintiff leave to rewrite the complaint requiring inconsistent, contradictory, impossible conditions for any such amended complaint.

48.

Pursuant to conspiracy, and under color of Colorado State Statutes C.R.S., 1973, 13-16-101, 102 and 13-17-101, Sherman Finesilver

(a) threatened to arbitrarily, illegally dismiss Case D and

(b) threatened to illegally award the defendants therein (and herein) attorneys fees; and

(c) he oppressively, illegally ordered the plaintiff to post a "cost" bond, with fraudulent excuse under color of state statutes of plaintiff's being a non-resident of Colorado in the exorbitant outrageous amount of $48,000.00 without any showing of cause, need, or reason for the outrageous amount with the apparent

intent and threat that it would be awarded illegally by his dictatorial fiat to pay defendants' attorney fees.

49.

Pursuant to the conspiracy subject of this complaint, the defendants proximately caused the plaintiff to be a non-resident of Colorado in 1978 and thereafter, proximately causing him to be subject to such illegal threats, abuse, and continuing illegal denial of use of federal and state courts in Colorado.

50.

Plaintiff refused to post $48,000.00 bond, so pursuant to conspiracy subject of this complaint, Judge Finesilver acting under color of state statutes unlawfully dismissed the case and with prejudice, with fraudulent reason given that plaintiff did not obey his order to post bond, illegally denying the plaintiff in Oregon his right to trial by jury and use

of federal courts in the district of Colorado or any other district in a suit involving claims based upon federal statutes with payment of only usual legal fees applicable to other plaintiffs in blatant violation of the Bill of Rights including the 5th and 7th Amendments of the U. S. Constitution.

51.

Review by appeal from aforementioned dismissal was denied by defendant Judges Oliver Seth, Monroe McKay, and James K. Logan of the 10th Circuit Court of Appeals who pursuant to conspiracy affirmed Judge Finesilver's grossly oppressive and obviously illegal orders, fraudulently, knowingly falsely

(a) claiming the dismissal (with prejudice) was due to refusal of plaintiff to comply with an order (nonexistent) to rewrite the complaint, and

(b) they acted fraudulently and illegally under color of state statutes by affirming the order of cost bond in amount of $48,000.00 without reason given for the bond or the amount.

52.

Under color of Colorado State Statutes, that violate the U.S. Constitution, the conspirators illegally closed all courts in Colorado, state and federal, to the plaintiff as to any future use including for this instant case by a continuing threat of requiring exorbitant prohibitive cost bonds threatened to be followed by fraudulent arbitrary dismissals with arbitrary illegal awards of attorney fees to defendants from the posted cost bond.
(a) Aforementioned outrageous acts were directed to the plaintiff in Oregon.
(b) Aforementioned continuing illegal closure of state and federal courts in Colorado to the plaintiff damages

plaintiff in the instant lawsuit because of differences in court procedure in Oregon and Colorado, Oregon statutes and case law are different than Colorado to the disadvantage of the plaintiff, and the plaintiff could conduct discovery and trial more effectively in Colorado if courts there were available to the plaintiff for fair and honest trials and appeals and without illegal fees and threats.

53.

(a) On May 2, 1986, the plaintiff in Ontario, Oregon, mailed by certified mail receipt of which was acknowledged by return cards,letters with the same content each to defendants Carl R. Kostol, M.D., Allan L. Ferrin, M.D., and David E. Reid, D.O. an example of which is appended hereto as EXHIBIT F and incorporated herein.

(b) Copy of letter written that same date

to defendant Howard I. Bobbitt is appended hereto as EXHIBIT G and incorporated herein. (c) Copies of letters referred to and enclosed in the aforementioned letters are appended hereto as EXHIBITS H and I and incorporated herein.

(d) Letters referred to in (a) and (b) requested information as to the reason for the continuing conspiracy subject of this complaint and specifically for the reasons those persons acted outrageously and by illegal means and for illegal purposes pursuant to that conspiracy to deprive the plaintiff unlawfully the use of his license to practice medicine in Oregon, and continuing subject to their illegal conditions, damages from which are included in this complaint.

54.

Pursuant to the conspiracy subject of this complaint and causing it to continue and

to threaten the plaintiff if he attempts to practice medicine now or in the future, defendants Kostol, Ferrin, Reid, and Bobbitt outrageously refused and continue to refuse to answer any of the questions in the aforementioned letters.

55.

As a proximate result of the foregoing conspiracy and acts committed including by fraud, the defendants and each of them illegally proximately caused plaintiff loss of lawsuits represented by complaints appended hereto and other related lawsuits and benefit of other lawsuits in the past and in the future to which he is entitled and loss of compensatory, punitive, and treble damages to which he was and is entitled.

56.

As a proximate result of the aforementioned acts committed and being committed pursuant to the continuing

conspiracy subject of this complaint, the plaintiff has suffered and continues to suffer past, present, and future loss of right to trial for damages, injunctive relief related to his right to practice medicine and surgery, and other benefits of trial, right to trial by jury, and right to benefits properly awarded or to be awarded by a jury.

57.

The foregoing acts were committed and are being committed by defendants herein with their knowing that the only possible remedy would be through lawsuits initiated by the plaintiff which would increase his damages even though such lawsuits would be justified, with merit, and against which there would be no legitimate defense. Defendants are responsible for acts and inaction of plaintiff in mitigation of damages including his trying to avoid initiation of lawsuits including the

instant case.

58.

As a proximate result of the aforementioned acts, and which were committed pursuant to the continuing conspiracy subject of this complaint to damage the plaintiff's lawful practice of medicine and surgery for illegal purposes and by illegal means, the plaintiff has been irreparably damaged and continues to be damaged in his practice of medicine and surgery and illegally and continues to be unlawfully deprived of his right to practice medicine and surgery without unlawful interference and obstruction.

59.

As a proximate result of the foregoing acts committed by defendants, and pursuant to conspiracy, the defendants and each of them have proximately caused the plaintiff loss of time and money in an amount exceeding $75,000,000,00 and other special

damage.

60.

Aforementioned acts, and committed pursuant to conspiracy, have proximately caused the plaintiff severe emotional distress and mental suffering in the amount of $15,000,000.00.

61.

Aforementioned acts of the defendants and each of them have been committed and continue to be committed maliciously, willfully and wantonly, and in reckless disregard of the rights and feelings of the plaintiff, and the plaintiff is entitled to exemplary and punitive damages.

II. SECOND CLAIM FOR RELIEF: EXTREME OUTRAGEOUS CONDUCT, AND PURSUANT TO CONSPIRACY, WHICH INTENTIONALLY INFLICTED AND CAUSED AND CONTINUES TO CAUSE THE PLAINTIFF TO SUFFER SEVERE EMOTIONAL DISTRESS

62.

Paragraphs 1 through 61 are incorporated herein by this reference.

63.

The aforementioned conduct and each and all of the acts accumulated and together, of each and all of the defendants, committed jointly and separately, and committed and being committed pursuant to a continuing conspiracy, were and are outrageous in the extreme and they were committed and continue to be committed intentionally for the purpose of causing the plaintiff to suffer severe emotional distress.

64.

The aforementioned conduct, acts, and accumulated acts, committed by the defendants and each and all of them and together proximately caused and continue to cause the plaintiff to suffer severe emotional distress, mental suffering, and

other damage as alleged herein.

III. THIRD CLAIM FOR RELIEF: CLAIMS FOR DAMAGES PROVIDED FOR BY 42 U.S.C. s. 1983

65.

Paragraphs 1 through 64 are incorporated herein by this reference.

66.

The aforementioned conspiracy and acts were designed to and did deprive plaintiff, while in the jurisdiction of Colorado, of rights, privileges and immunities secured by the Constitution of the United States of America, under color of statutes, regulations, and customs of the State of Colorado. The aforementioned conspiracy is continuing, and the aforementioned acts committed and threatened to be committed are of continuing nature, and plaintiff continues to be denied the aforementioned rights, privileges, and immunities.

WHEREFORE, plaintiff prays for remedy and relief from the defendants and judgment jointly and severally as follows:

1. Special damages in the amount of $75,000,000.00,

2. General damages in amount of $15,000,000.00,

3. Costs of suit,

4. Attorneys' fees,

5. Interest,

6. Other appropriate remedy and relief;

AND exemplary damages from each of the defendants as follows:

7. $500,000,000.00 from Hartford Insurance Group, and

8. $1,000,000.00 each from each of the other defendants.

PLAINTIFF DEMANDS A JURY TRIAL OF ALL ISSUES HEREIN By (signed) Donald E.Tyler,M.D., PLAINTIFF pro se, 1092 SW 2nd Ave., Ontario, OR 97914 telephone (503)-889-5109

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON DONALD E. TYLER, M.D., Plaintiff, v. HARTFORD INSURANCE GROUP, Sherman G. Finesilver, Oliver Seth, Monroe G. McKay, James K. Logan, William Ericksen, Donald P. Smith, Jr., A.M. Kelly, E.P. Van Cise, Judge Tursi, Edwin G. Ruland, Alan L. Sternberg, Harry S. Silverstein, Jr., Mac V. Danford, Philip F. Roan, Harlan R. Bockman, Dean Johnson, Jean J. Jacobucci, Marvin W. Foote, Anthony F. Vollack, Stephen D. Dawson, Debbie Freepons Craig, Peter Pryor, Thomas L. Roberts, John Mott, Paul D. Renner, John R. Rodman, Frank R. Kennedy, Paul D. Cooper, Donald E. La Mora, Sherman and Howard Law Firm, Michael A. Williams, Kenneth B. Siegel, Ellen W. Reath, Roger F. Johnson, Robert Ruddy, Carl R. Kostol,

M.D., Allan L. Ferrin, M.D., David E. Reid, D,.O., and Howard I. Bobbit, Defendants. Civil No. 86-854-RE (Malheur County Circuit Court No. 86-06-20969-L)

PETITION FOR REMOVAL

TO: The Honorable Judges of the United States District Court for the District of Oregon

COMES NOW CHARLES H. TURNER, United States Attorney, and JUDITH D. KOBBERVIG, Assistant United States Attorney, and move that the above-entitled cause, commenced in the Circuit Court for the State of Oregon for the County of Malheur County, No. 86-06-20969-L, against the defendants Sherman G. Finesilver, Chief Judge, United States District Court for the District of Colorado; Oliver Seth, Monroe G. McKay, and James K. Logan, Judges of the United States Circuit Court for the Tenth

Circuit, on June 3, 1986, be removed to this court, and in support thereof state: (1) The Petitioners are three United States Circuit Court Judges for the Tenth Circuit and a United States District Court Judge for the District of Colorado and have been duly appointed by the President; are engaged in the performance of Federal functions under authority of law and Executive acts; and are subject to the supervision of the Judicial Conference of the United States. (2) Petitioners were first notified of this suit when a copy of the complaint was delivered to defendant Chief Judge Sherman G. Finesilver on June 12, 1986. Not all federal named defendants have been served nor has the United States Attorney for the District of Oregon. As the defendants are not listed by title, it is not clear if additional federal employees have been named and therefore should be included in this

petition. Defendants have not been served in accordance with Rule 4 F.R.Civ.P. and by filing this Petition for Removal do not waive any jurisdictional defects which will be asserted in a timely manner in accordance with the Federal Rules of Civil Procedure. (3) No bond need accompany this Petition for the reason that petitioners are employees of the United States Government and at all relevant times to this suit these employees were acting within the course and scope of their employment under color of federal law. (4) Petitioners herewith file a copy of the complaint which was received in this office by telefax on July 3, 1986 from the United States Department of Justice. This complaint does not include the lengthy exhibits attached to the complaint. The Malheur County Clerk°s Office has been contacted with a request that all documents in the file be

forwarded to this office for filing. Those documents will be filed with the Court as soon as they are received in this office.

WHEREFORE, this action now pending in Circuit Court for the State of Oregon, County of Malheur is removed therefrom to this Court for all further proceedings.

Dated this 3rd day of July, 1986.

(signed) JUDITH D. KOBBERVIG

Assistant United States Attorney

EXHIBIT C (page 1, a letter)

United States Attorney, District of Oregon, 312 United States Courthouse, 620 S.W. Main, Portland, Oregon 97203, July 3, 1986 Malheur County Circuit Court, P.O. Box L, Vale, OR 97918

Re: Donald E. Tyler v. Hartford Insurance, et al., 86-06-20969-L

To the Clerk: Enclosed for filing in the above-entitled case is a Notice of Filing of Petition for Removal, Petition for

Removal attached thereto. In a telephone conversation with your office today, we were advised that there is no filing charge for this. Please advise us of the date the Notice is filed by returning the attached copy of this letter with the appropriate information for Your reply I have enclosed a sel-addressed (sic) envelope. Very truly yours, CHARLES H. TURNER United States Attorney (signed) Judith D. Kobbervig Assistant United States Attorney Encls.

FILED ON July 9, 1986

EXHIBIT C, page 2

IN THE CIRCUIT COURT FOR MALHEUR COUNTY, DONALD E. TYLER, M.D., Plaintiff, v. HARTFORD INSURANCE GROUP, et al.,Defendants. No. 86-06-20969-L

NOTICE OF FILING OF PETITION FOR REMOVAL

TO: Clerk of the Circuit Court of the States (sic) of Oregon for Malneur County Donald E.Tyler, M.D.,1092 S.W.2nd Avenue

Ontario, Oregon 97914 PLEASE TAKE NOTICE that on July 3, 1986, Defendant, United States of America filed in the United States District Court for the District of Oregon, a Petition for Removal of the above-entitled cause from the Circuit Court of the State of Oregon for Malheur County to the United States District Court for the District of Oregon. Copies of the pleadings are attached hereto.

DATED this 3rd day of July, 1986.

CHARLES H. TURNER United States Attorney

(signed) JUDITH D. KOBBERVIG Assistant United States Attorney

Certified to be a true and correct copy of the original Pamela J. Barton, trial court clerk by (illegible) J---Ross ?

EXHIBIT D (Copy of 28 USCS S.1446)

EXHIBIT E (Copy of 28 USCS ss.1447,1449)

EXHIBIT F

UNITED STATES DISTRICT COURT DISTRICT OF OREGON CIVIL MINUTES-GENERAL Case No. 86-A-335

854-RE Date July 21, 1986 Title DONALD TYLER MD v. HARTFORD INS. GROUP et al DOCKET ENTRY Record of order: GRANTING Hartford's motion for ext. of time to file appearance in this case. Appearance shall be filed within 30 days of the date of this minute order. Order setting status conference TUESDAY, SEPTEMBER 2, 1986 9:30 a.m. (in person status conference). PRESENT: HON. JAMES A. REDDEN, JUDGE M. Hartzell Deputy Clerk

EXHIBIT G

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON DONALD E. TYLER, M.D., Plaintiff vs. HARTFORD INSURANCE GROUP, et al., Defendants. Civil No. 86-854-RE

September 2, 1986 Portland, Oregon

TRANSCRIPT OF PROCEEDINGS BEFORE: The Honorable James A. Redden, Judge.

APPEARANCES: For the Plaintiff Donald E. Tyler, M.D., Pro se For the Government:

Ms Judith Kobbervig, Asst. United States Attorney For Defendant Roberts: Mr. Rick Kuhn Court Reporter: Jerry C. Harris

THE CLERK: For the record, this is the time set for status conference in Tyler versus Hartford Insurance Company, et al. Counsel identify yourselves for the record.

MS. KOBBERVIG: Judy Kobbervig for the Government, Your Honor

MR. KUHN: Rick Kuhn for Defendants Smith, Kelly, Ruland, Roan, Bockman, Foote and Vollack.

DR. TYLER: I am Donald Tyler, M.D., plaintiff.

THE COURT: The reason I asked for this status conference is because there are a great number of parties involved in the lawsuit. It is not just complex but certainly is a repetition of previous lawsuits or nearly so. I see most of the parties have opted out but I, nonetheless,

will set a schedule for all motions to dismiss and/or summary judgment motions, a time for responses. I think at this point all the motions have been filed. So the responses by the doctor will be due and then replies will be due, oral arguments will be scheduled. If the case survives the oral argument, at the time of oral argument I will set a schedule which will include the trial date.

MR. TYLER: Excuse me, Your Honor. I have a motion before the Court challenging the Court's jurisdiction. I submitted that motion.

THE COURT: I am treating that as one of the responses to the various motions that have been filed. It will be treated together with

DR. TYLER: I submit that when a motion is before the Court challenging the jurisdiction, that should take precedence.

THE COURT: Do you have any other response

you are going to file? Anything else you are going to file against the motions that have been submitted, or is that to be treated as your response to all motions to dismiss or for summary judgment? I can tell you sir, your chances of winning that are very slim indeed. I haven°t researched it yet, but it seems to me clearly I have jurisdiction.

DR. TYLER: Well, Your Honor, it would appear to me when I am challenging the jurisdiction of the Court

THE COURT: Let me resolve that. The motion is denied. Do you wish to file any responses?

DR. TYLER: You have denied the motion? Well, Your Honor, my next course would be to be in the appeals court.

THE COURT: Let me say this Doctor. Do you wish to file responses to the individual motions which have been filed against you? You have every right to do

that or you can rest on your overall motion to dismiss for lack of jurisdiction. I am trying to advise you your chance of succeeding on that at this level or in the Ninth Circuit Court of Appeals are skinny indeed. What I am recommending, I guess to you is that you take advantage of the opportunity to respond to the various motions for summary judgment and/or to dismiss and see whether you prevail on those. I am prepared to submit to you and will in fact submit to you a schedule in that regard. You will have until September 19, 1986 to file your responses to all of the motions to dismiss and summary judgments which have been filed. Replies will be due September 26, 1986. The oral argument will be October 16, 1986. October 16th is a Thursday. oral argument will be at 8:30 a.m. At that time, Doctor, I will listen to any argument you may have on the individual

motions filed against you and on the motion to dismiss, if that's what it is, your motion for my lack of jurisdiction in this case. They will all be ruled upon at the same time.

DR. TYLER: Do I understand you did not deny it at this time?

THE COURT: I have not made a ruling at this time. I have tried to point out to you you need not rely on that motion at this point. You can still respond to all the individual motions just in case you lose the one on jurisdiction. Motions such as that are pretty easy to lose in the Ninth Circuit. It appears to me just glancing at it, there is probably jurisdiction. So what I am trying to tell you is you ought to take advantage of this situation and the federal rules and respond to those motions to dismiss on summary judgment on the grounds other than jurisdiction if

such grounds there be. There is no sense in putting all your eggs in one basket. I will probably on the day of the argument or soon thereafter on all motions before me. Can either of the defendants present tell me or the plaintiff whether or not all motions have been filed? Have all the defendants filed something?

MR. KUHN: Your Honor, Rick Kuhn for Defendant Roberts. I Don't know whether all the parties have been served yet. And I don't know if everyone has appeared. I know there are a number of motions in the file. I haven't gone through those.

THE COURT: Have you served everyone?

DR. TYLER: I don't understand your question, Your Honor.

THE COURT: Have you told all these folks you are suing them: Have you served your complaint on them:

DR. TYLER: On all of the defendants listed, no, Your Honor, I have not.

THE COURT: When do you intend to do that?

DR. TYLER: Your Honor, at the present time I don't know where this case really is. As far as I'm concerned

THE COURT: It is in federal court.

DR. TYLER: As far as I'm concerned, it's never been removed. The United States is not a defendant. It is required in the petition that the defendants file a petition in the state court. That hasn't been done. So I am not going to serve any of these people to appear in the United States Court.

THE COURT: Have all of the people been served in your state court action before it was removed?

DR. TYLER: No, no, Your Honor, they haven't been.

MS KOBBERVIG: For the record, Your Honor, only one of the federal judges who were named was actually served and that was

Judge Finesilver. Three of the circuit judges were never actually served although I moved on behalf of all three for dismissal.

THE COURT: When was it filed in state court; do you remember?

MS. KOBBERVIG: The removal or the action?

THE COURT: The initial action.

MS KOBBERVIG: I do not have it in the removal petition.

MR. KUHN: It looks like sometime in June of '86, Your Honor.

DR. TYLER; Excuse me, the petition was filed July 3rd.

THE COURT: Pardon?

DR. TYLER: The petition was filed July 3rd according to the records here.

MS KOBBERVIG: That is the removal.

THE COURT: The initial action.

DR. TYLER: Oh.

THE COURT: When you filed it in

approximately June of '86, did you attempt to serve all the parties or just filed the action?

DR. TYLER: I did not attempt to serve all the parties.

THE COURT: Is it your intention to serve these people?

DR. TYLER: It was my intention at that time but not at this time.

THE COURT: What did you do in that regard. When you filed your lawsuit in state court, didn't you hire somebody to serve these people or just sort of filed it and waited?

DR. TYLER: Your honor, I don't understand what it is that you wish to understand.

THE COURT: You filed this case in state court; am I correct?

DR. TYLER: Yes, that's correct.

THE COURT: Against numerous defendants?

DR. TYLER: Yes that's correct.

THE COURT: Did you make any attempt or

make any arrangements or take any action at all to have those defendants served at that time for your case in state court?

DR. TYLER: I was in the process, Your Honor. I had served several of them.

THE COURT: Your agents or are you taking any action for any of those others to be served either in state or federal court at all?

DR. TYLER: Your Honor, I'm taking no action to serve any of them as long as the case is in this U.S. District Court if there is any question about where jurisdiction is.

THE COURT: All right. We will be in recess. (recess)

I certify that the foregoing is a true and correct transcript of the record of proceedings in the above-entitled matter. September 4, 1986. (signed) JERRY C. HARRIS Official Court Reporter.

EXHIBIT H

THE CLERK: For the record, this is the time set for status conference in Tyler versus Hartford Insurance Company, et al. Counsel identify yourselves for the record.

MS. KOBBERVIG: Judy Kobbervig for the Government, Your Honor.

MR. KUHN: Rick Kuhn for Defendant Roberts. I thought there would be more people present today.

DR. TYLER: I am Donald Tyler, M.D., plaintiff.

THE COURT: The reason I asked for this status conference is because there are a great number of parties involved in the lawsuit. It is not just complex but certainly is a repetition of previous lawsuits or nearly so. I see most of the parties have opted out but I, nonetheless, will set a schedule for all motions to dismiss and/or summary judgment motions, a

time for responses. I think at this point all the motions have been filed. So the responses by the doctor will be due and then replies will be due, oral arguments will be scheduled. If the case survives the oral argument, at the time of oral argument I will set a schedule which will include the trial date.

MR. TYLER: Excuse me, Your Honor. I have a motion before the Court challenging the Court's jurisdiction. I submitted that motion.

THE COURT: I am treating that as one of the responses to the various motions that have been filed. It will be

EXHIBIT I

IN THE UNITED STATE DISTRICT COURT FOR THE DISTRICT OF OREGON DONALD E. TYLER, M.D., Plaintiff, v. HARTFORD INSURANCE GROUP, et al., Defendants. Case No. 86-854-RE

MOTION OF DEFENDANT HARTFORD INSURANCE FOR ATTORNEY FEES AND COSTS PURSUANT TO FRCP11

(Oral Argument Requested)

Defendant, Hartford Insurance Group, respectfully moves the court for an order awarding Hartford Insurance Group its attorney fees and costs incurred in responding to Plaintiff's complaints and motions before this court. In support of its motion, Defendant, Hartford Insurance Group, relies upon FRCP 11, the attached Memorandum of Law and its exhibits and the complete record of this action.

DATED this 3rd day of October, 1986.

YTURRI, ROSE, BURNHAM, EBERT & BENTZ

By (signed) Teresa J. Hutchens, OSB #86047

EXHIBIT J

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON

DONALD E. TYLER, M.D., Plaintiff, vs. HARTFORD INSURANCE GROUP, et al., Defendants. No. 86-854-RE, Portland, Oregon February 6, 1987

TRANSCRIPT OF PROCEEDINGS BEFORE THE HONORABLE JAMES A REDDEN, Judge

APPEARANCES: For the Plaintiff: None, For the Defendants: Messrs. Kenneth E. Roberts, Martin W. Ja da, Thomas K. Elden, Walter Sweek, Ms. Teresa J. Hutchens, Judith Kobbervig. Court Reporter: Jerry C. Harris.

THE CLERK: We are trying to reach Dr. Tyler.

THE COURT: This is the case of Tyler versus Hartford Insurance Company, et al. Let the record show this is in response to the December 19, 1986 complaint of Dr. Tyler about the expense of traveling to Portland. We reset the hearing on motions to dismiss to Friday, February 6, 1987, at 9:00 o'clock a.m. All local counsel to appear in person, out-of-town counsel will be on a conference telephone call. We advised that we would initiate the conference call. We have called Dr.

Tyler's office in Ontario, Oregon and there was no answer and then there was a busy signal. We have not heard from him as to whether he would be on the phone or not. Why don't you try him once more and then we will proceed with or without him.

(Clerk dials number.)

THE COURT: The record should reflect that four attempts have been made to reach Dr. Tyler by phone pursuant to a notice sent out for the purpose of his appearance at this hearing; it was at his request and we agreed to allow him to appear by telephone rather than traveling to Portland. The matter before us, there are several motions by several defendants in this case. I intend to issue a written opinion. I will advise the parties present and by telephone in summary of my determination. First, let me ask counsel, those present, who you represent.

MR. ELDEN: This is Tom Elden, your Honor,

from the State of Oregon; I represent five former members of the Board of Medical Examiners, one of whom, for the record, is deceased. I have called that to Dr. Tyler's attention; he has left him in the case, as I recall. I am just trying to check through here and get the names.

THE COURT: I have the names. You have got Kostel, Ferrin, Reid, and Bobbitt.

MR. ELDEN: I thought there was fifth one, Judge. Let me just look. Kostol, Ferrin, Reid and Bobbitt; I guess that's it. I thought there was an additional one at some point.

THE COURT: In any event, they would all be members

MR. ELDEN: Former members. Actually, Mr. Bobbitt, in point of fact, I am not sure was actually a member of the board as such; he was an attorney working with the board back at that time. We didn't

address the claim on the basis of their role; we addressed it on the ground for dismissal.

THE COURT: Thank you. Others in the courtroom, identify yourselves and who your are representing.

MR. ROBERTS: Kenneth E. Roberts, representing Thomas 1. Roberts.

MS HUTCHENS: Teresa J. Hutchens, H-u-t-c-h-e-n-s, representing Hartford Insurance.

MS. KOBBERVIG: Judy Kobbervig, representing the three circuit and one district court judges; Judge Silverstein has never been served in this case.

MR. JAQUA: Martin Jaqua, representing Defendants Smith, Kelly, Bockman, Foote and, of course, all of the Colorado state judges, either trial or appellate judges. There is also some Colorado judges who have been named but not served. There is one who I believe is deceased.

MR. SWEEK: Walter Sweek. Your Honor, Fred

Roehr, my partner, represents Debbie Craig; he is in trial. I am standing in for him.

THE COURT: I have reviewed the filings such as they are from the parties. We met here in court with Dr. Tyler present, I believe, last October at which time I denied his motion to remand this case to state court and set a schedule for determination of all issues. I granted the doctor time to serve defendants not yet served if he chose to serve them. There has been no activity in the record since then. I will grant Defendant Roberts' motion to dismiss for lack of personal jurisdiction. I will grant Defendants Kostol, Ferrin, Reid and Bobbitt (state defendants) motion to dismiss; and if there is any other individuals who served on the board at that time included in the complaint and not mentioned, this order would cover that

individual as well. I grant the order to dismiss in its entirety because the claims against them are barred by the statute of limitations. In addition, the motion to dismiss is granted as to plaintiff's first claim for relief because plaintiff has failed to state a claim for interference with economic relationships. The motion to dismiss will be granted as to plaintiff's second claim for relief because plaintiff has failed to state a claim for intentional infliction of emotional distress. And the motion to dismiss will be granted as to plaintiff's third for relief because the claims of civil rights violations refer to events in Colorado and have no reference to the Oregon State defendants. Thirdly, I grant Hartford Insurance's motion to dismiss on the ground that it is barred by the applicable Oregon statute of limitations and because the Court lacks personal

jurisdiction over the defendant Hartford. In addition, the motion to dismiss is granted as to the first and third claims for relief because they fail to state a claim upon which relief can be granted as to this defendant. I do not think you need to reach Defendant Hartford's motion in the alternative to strike and make more definite and certain. Fourth, I grant Defendant Debbie Craig's motion to dismiss in its entirety based upon judicial immunity and plaintiff's failure to provide notice and file within the applicable statute of limitations. It is not necessary to reach this defendant°s motion in the alternative for an order requiring a more definite statement. Five, I grant defendants Johnson, Danforth, Silverstein, Steinberg, Tursi, Van Cise, Jackabusi (sic) and Ericksen°s (state judges and employees of the Colorado Judicial Department) motion to

withdraw appearance based on the fact that these defendants were never served with a summons, the original or amended complaint. Six, I grant defendants Smith, Kelly, Rulin, Rowen(sic) Bachman(sic), Foote and Vollack's (Colorado State judges) motion to dismiss for lack of personal jurisdiction, failure to comply with the tort claim notice requirement, failure to file within the applicable statute of limitations, and based on judicial immunity. Seven, I grant defendants Finesilver, Seth, McKay and Logan's (federal judges) motion for summary judgment based on judicial immunity. I dismiss as against those defendants who have not been served. Within this order I include the defendants who have filed motions to withdraw as well as those who have not. There is one other motion outstanding and that is Hartford's motion for sanctions. If you wish to

pursue that matter, you should again file a very brief motion drawing my attention to this earlier motion at which time I will set a hearing date which is necessary to impose sanction. Dr. Tyler needs to have the opportunity to be heard if you do intend to file a motion for sanctions. A detailed report of the attorney's time spent in federal court action should be included as a basis upon which I will base any sanction which I may or may not grant.

MR. ELDEN: Your Honor, this is Tom Elden. That is a clean sweep as to all of the defendants. Will Your Honor issue a judgment order of dismissal?

THE COURT: Yes.

MR. ELDEN: Thank you.

THE COURT: I will first issue an opinion. I don't know whether to issue a judgment or not. I will wait and see if there are any more motions for sanctions. We will

be in recess.

MR. ELDEN: Your Honor, you°re going to put this in writing and will we get a copy?

THE COURT: Yes. (CONCLUDED)

I certify that the foregoing is a true and correct transcript of the record of proceedings in the above-entitled matter. February 13, 1987. (signed) JERRY C. HARRIS, Official Court Reporter.

EXHIBIT K

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON DONALD E. TYLER,M.D., Plaintiff, vs HARTFORD INSURANCE GROUP, et al., Defendants. Case No. 86-854-RE MOTION OF DEFENDANT HARTFORD INSURANCE FOR ATTORNEYS FEES AND COSTS PURSUANT TO FRCP 11 (Oral Argument Requested)

Defendant, Hartford Insurance Group, respectfully moves the court for an order awarding Hartford Insurance Group its

attorneys fees and costs incurred in responding to Plaintiff's complaints and motions before this court. In support of its motion, Defendant, Hartford Insurance Group, relies upon FRCP 11, the Motion and Memorandum of Law in Support of its Motion previously submitted to the Court by Defendant Hartford Insurance Group requesting its attorney fees and costs pursuant to FRCP 11, the exhibits attached to that Memorandum of Law, the complete record of this action, and the attached Statement of Attorney Fees and Costs and Cost Bill. DATED this 11th day of February, 1987. YTURRI, ROSE, BURNHAM, EBERT & BENTZ By (signed) Teresa J. Hutchens, OSB #86047 Trial attorney: Carl Burnham, Jr. OSB #64008

(Pages 3-13 of this EXHIBIT K because of volume and diluted value are omitted. They are detailed billings for costs and for 55.5 hours of Teresa J. Hutchens, 4.8

hours of Carl Burnham, and 2.8 hours of "legal assistants" for Hartford, totaling costs of $1,126.41 and attorney fees in the amount of $3,850.00. The only itemized time related to the petitioner's motion to remand, his only motion in federal court, (complaint and amended complaint were filed in state court) was on 8-8-86 "Review Rule 12 motions of other defendants and memorandum of Tyler in support of motion to remand--0.5 hours" of Hutchens).

EXHIBIT L,

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON DONALD E. TYLER, M.D., Plaintiff, v. HARTFORD INSURANCE GROUP, Sherman G. Finesilver, Oliver Seth, Monroe G. McKay, James K. Logan, William Ericksen, Donald P. Smith, Jr., A.M. Kelly, E.P. Van Cise, Judge Tursi, Edwin G. Ruland, Alan L. Sternberg, Harry S. Silverstein, Jr., Mac V. Danford, Philip

F. Roan, Harlan R. Bockman, Dean Johnson, Jean J. Jacobucci, Marvin W. Foote, Anthony F. Vollack, Stephen D. Dawson, Debbie Freepons Craig, Peter Pryor, Thomas L. Roberts, John Mott, Paul D. Renner, John R. Rodman, Frank R. Kennedy, Paul D. Cooper, Donald E. LaMora, Sherman and Howard Law Firm, Michael A. Williams, Kenneth B. Siegel, Ellen W. Reath, Roger F. Johnson, Robert Ruddy, Carl R. Kostol, M.D., Allan L. Ferrin, M.D., David E. Reid, D.O., and Howard I. Bobbit, Defendants. Civil No. 86-854-RE

OPINION REDDEN, Judge:

Plaintiff, who is a physician and attorney, brought this action against Hartford Insurance Group and 39 individuals for tortious interference with business relations, outrageous conduct and violation of 42 U.S.C. s 1983. The individual defendants include members of the Colorado judiciary presiding in all

levels of both state and federal courts, members of the medical staff of the Brighton Community Hospital, members of the Colorado Medical Society, the Colorado State Medical Examiners, the attorneys who represented these individuals in prior suits brought by Dr. Tyler in Colorado, four members of the Oregon Board of Medical Examiners and others.

The case was initially filed in Malheur County, Oregon. The United States removed the case to federal court on July 3, 1986 on behalf of a federal judge who had been served, defendant Finesilver, and other federal officers and employees who had not been served. Plaintiff filed a motion to remand the case to state court on August 8, 1986.

I denied plaintiff's motion to remand on October 17, 1986, and ordered that plaintiff had until November 17, 1986 to serve any defendants he wished to serve.

I also set a briefing schedule and date for oral arguments on the pending motions to dismiss as well as any motions to dismiss that might be filed by newly served defendants.

A minute order issued December 19, 1986 advised all parties that the hearing would be held on February 6, 1987 at 9:00 a.m. Plaintiff indicated that personal appearances were difficult for him due to distances involved. All local counsel were ordered to appear in person but, as a convenience to the parties and plaintiff, out of town counsel were allowed to appear by conference telephone call initiated from my courtroom.

At the time of the hearing plaintiff, who has represented himself througnout the case, failed to appear in person and could not be reached by telephone. My courtroom deputy called plaintiff's office in Ontario, Oregon four times at the phone

number he provided but was unable to reach him. Plaintiff did not contact the court before, during or after that date.

I ruled on the seven (7) motions before me granting the various defendants° motions as discussed below.

Defendant Roberts' Motion to Dismiss

Mr. Roberts is a Colorado attorney who was defense counsel in two cases brought by plaintiff in Colorado. Plaintiff's cases all stem from the failure to renew his hospital privileges at the Brighton Community Hospital in Brighton, Colorado approximately twelve years ago. Plaintiff has alleged in the instant action that Mr. Roberts acted pursuant to a conspiracy by supplying the Colorado Board of Medical Examiners deceitful, false information concerning plaintiff. Mr. Roberts moves to dismiss the claims against him on the ground that the court lacks jurisdiction over him. I grant the motion for lack of

personal jurisdiction pursuant to Rule 4 of the Oregon Rules of Civil Procedure.

State Defendants' Rule 12 Motion to Dismiss The state defendants are Carl Kostol, Allan Ferrin, David Reid and Howard Bobbitt. They were members of the Oregon Board of Medical Examiners. The claim against these defendants has to do with letters that plaintiff wrote to the Board in 1986 inquiring about letters dated September and October 1965 that were addressed to plaintiff. The substance of the letters had to do with plaintiff's application for reinstatement of his medical license to active status. The state defendants move to dismiss on the basis that any claims plaintiff has which stem from the 1965 letters are time barred. O.R.S. 30.275(8) provides that an action arising from any act or omission of a public body or an officer, employe (sic) or agent of a public body shall be

commenced within two years after the alleged loss or injury. I grant the state defendants' motion to dismiss in its entirety because the claims against them are barred by the statute of limitations. In addition, the motion is granted as to plaintiff's first claim for relief because plaintiff has failed to state a claim for interference with economic relationships and to plaintiff's second claim for relief because plaintiff has failed to state a claim for intentional infliction of emotional distress. Moreover, the motion is granted as to plaintiff's third claim for relief because the claims of civil rights violations refer to events in Colorado and have no reference to the Oregon state defendants.

Defendant Hartford Insurance's Motion to Dismiss, Strike and Make More Definite and Certain Defendant Hartford was plaintiff's malpractice insurance carrier

in Colorado. Plaintiff's professional conduct as a physician was apparently questioned and reviewed by a hospital review committee at Brighton Community Hospital. Plaintiff reportedly refused to cooperate with these reviews and consequently his liability insurance coverage was cancelled. Defendant Hartford moves for dismissal on four alternative theories and also moves to strike or make more definite and certain. I need not reach the motions to strike and make more definite and certain and grant the motion to dismiss on the following grounds. First, personal jurisdiction is lacking under Rule 4 of the Oregon Rules of Civil Procedure. Defendant Hartford has had no contact with Oregon which is relevant to the cause of action. Second, the complaint is barred by the statute of limitations. O.R.S. 12.110(1), O.R.S. 659.045(1) and O.R.S. 12.115(1). Third,

the motion to dismiss is granted as to the first and third claims for relief because they fail to state a claim upon which relief can be granted as to this defendant.

Defendant Debbie Freepons Craig's Motion to Dismiss or Make More Definite and Certain Ms. Craig was law clerk to Judge Ruland of the Colorado Court of Appeals. All claims brought against her in this case arise out of actions which allegedly occurred by virtue of this employment. I grant Ms. Craig's motion to dismiss in its entirety based upon judicial immunity and plaintiff's failure to provide notice and file within the applicable statute of limitations. It is not necessary for me to reach this defendant's motion in the alternative for an order requiring a more definite statement.

Defendants Johnson, Danforth, Silverstein, Steinberg, Tursi, Van Cise, Jacobucci and

Ericksen's Motion to Withdraw Appearance

These defendants were not served with any summons or pleading. Attorneys for these defendants were retained to represent judges and other current and former employees of the Colorado Judicial department. The attorneys submitted a motion to dismiss on behalf of all of their clients when the case was still in state court. They then learned that the case had been removed to federal court and moved for an extension of time within which to respond to the amended complaint which had just been filed. They indicate that they were uncertain at that time which defendants had actually been served with the amended complaint. The defendants who now move to withdraw appearance have never been served with a summons, original complaint or amended complaint. Defendant Jean Jacobucci is deceased. I grant the motion to withdraw

as to these defendants. Plaintiff was served with the motion to withdraw on August 4, 1986, and still has not served these defendants. I find the defendants should not be considered to have waived their defense of insufficiency of service of summons and grant the motion to withdraw their prior appearance.

Defendants Smith, Kelly, Ruland, Roan, Bockman, Foote and Vollack's Motion to Dismiss These defendants are all Colorado state judges. They move for dismissal for lack of personal jurisdiction, failure to comply with the tort claim notice requirement, judicial immunity and failure to file within the applicable statute of limitations.

I find that personal jurisdiction is not conferred by any of the provisions of Rule 4 of the Oregon Rules of Civil Procedure as to these defendants. Moreover, plaintiff has not alleged compliance with

the notice provisions of the Colorado Governmental Immunity Act. I grant dismissal on this ground as to plaintiff's first and second claims for relief. Dismissal is also granted on the ground that these defendants have a right to immunity from civil suit. The defendants' acts occurred as judicial officers of the State of Colorado and the defendants were hearing matters within their jurisdiction. The motion to dismiss is also granted because the action has not been brought within the applicable statute of limitations. Dr. Tyler alleges that he has been damaged as a result of a conspiracy beginning in 1974 and the claim was commenced in 1986. it is barred by Oregon, Colorado and federal statutes of limitations, whichever is applicable.

The motion to dismiss as to these defendants is granted in its entirety. Defendant Federal Judges Finesilver, Seth,

McKay, and Logan's Motion for Summary Judgment Judge Finesilver is a federal district court judge and the other three named defendants here are appellate judges from the Tenth Circuit. Dr. Tyler claims these four judges illegally deprived him of his rights in an earlier case litigated in the Tenth Circuit. The judges invoke the doctrine of judicial immunity to support their motion for summary judgment. The judges were exercising their proper jurisdictional authority when ruling on plaintiff's case and are therefore immune from civil suit for damages. Judges are immune from civil liability unless their actions are "in the clear absence of all jurisdiction." Stump v. Sparkman, 435 U.S. 349, 356-7 (1978). These judges meet the Stump standard by showing that they performed acts which they normally perform while in their capacity as United States District and Circuit Judges. Id.,

at 362. I grant the federal judges' motion for summary judgment based on judicial immunity.

Conclusion

I grant all of the defendants' motions to dismiss and for summary judgment as discussed above. In addition, I dismiss this action as against those defendants who have not been served. Within this order I include the defendants who have filed motions to withdraw as well as those who have not. This action is dismissed accordingly.

Dated this 4 day of March, 1987.

(signed) James A. Redden

United States District Judge

EXHIBIT M

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON, DONALD E. TYLER,M.D., Plaintiff v. HARTFORD INSURANCE GROUP, Sherman G.Finesilver, Oliver Seth, Monroe G. McKay, James K.

Logan, William Ericksen, Donald P. Smith, Jr., A.M. Kelly, E.P. VanCise, Judge Tursi, Edwin G. Ruland, Alan L. Sternberg, Harry S. Silverstein, Jr., Mac V. Danford, Philip F. Roan, Harlan R. Bockman, Dean Johnson, Jean J. Jacobucci, Marvin W. Foote, Anthony F. Vollack, Stephen D. Dawson, Debbie Freepons Craig, Peter Pryor, Thomas L. Roberts, John Mott, Paul D. Renner, John R. Rodman, Frank R. Kennedy, Paul D. Cooper, Donald E. La Mora, Sherman and Howard Law Firm, Michael A. Williams, Kenneth B. Siegel, Ellen W. Reath, Roger F. Johnson, Robert Ruddy, Carl R. Kostol, M.D., Allan L. Ferrin, M.D., David E. Reid, D.O., and Howard I. Bobbitt, Defendants. Civil No. 86-854-RE

ORDER REDDEN, Judge: IT IS ORDERED THAT: 1) Defendant Roberts' Motion to Dismiss is GRANTED; 2) Defendants Kostol, Ferrin, Reid and Bobbitt's Motion to dismiss is GRANTED; 3) Defendant Hartford Insurance's

Motion to Dismiss is GRANTED; 4) Defendant Debbie Freepons Craig's Motion to Dismiss is GRANTED; 5) Defendants Johnson, Danford, Silverstein, Tursi, Van Cise, Jacobucci and Ericksen's Motion to Withdraw Appearance is GRANTED; 6) Defendants Smith, Kelly, Ruland, Roan, Bockman, Foote and Vollack's Motion to Dismiss is GRANTED; and, 7) Defendants Finesilver, Seth, McKay and Logan's Motion for Summary Judgment is GRANTED.

IT IS ALSO ORDERED that this action is DISMISSED. IT IS FURTHER ORDERED that this action is DISMISSED as against those Defendants who have not been served.

Dated this 4 day of March, 1987.

(signed) James A. Redden

United States District Judge

EXHIBIT N

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON DONALD E. TYLER, M.D. Plaintiff, v. HARTFORD INSURANCE

GROUP, et al., Defendants. Civil No. 86-854-RE JUDGMENT

Based on the record. IT IS ORDERED that plaintiff take nothing and the action is dismissed on the merits. Dated this 9 day of March, 1987.

(signed--illegible) Clerk, United States District Court

EXHIBIT O

(This is a copy of 28 USCS s. 1442.)

EXHIBIT P

DEPARTMENT OF JUSTICE, TRIAL DIVISION, Justice Building, Salem, Oregon 97310, March 16, 1987

The Honorable Francisco J. Yraguen
Circuit Court Judge, Malheur County
Courthouse, Drawer L, Vale, Oregon 97918

Re: Tyler v. Hartford Malheur County Circuit Court Case No. 86-06-20969-L

Dear Judge Yraguen:

On March 9, 1987, a judgment was entered in the above entitled case that

had been removed to federal district court (Civil No. 86-854-RE) ordering the plaintiff take nothing and the action be dismissed on its merits. I assume that the court will do whatever is necessary to close out the file in Malheur County inasmuch as the matter having been removed and dismissed, there would be nothing left to accomplish in Malheur County. If the court wishes any of the counsel to draft any sort of order, please let us know. Sincerely, (signed) Thomas K. Elden Assistant Attorney General (Certified to be a true and correct copy of the original Pamela J. Barton, trial court clerk by (signed Evelyn Sword) 4-6-87

EXHIBIT Q

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF MALHEUR DONALD E. TYLER, M.D., Plaintiff, vs. HARTFORD INSURANCE GROUP, et al., Defendants. Case No. 86-06-20969-L

ORDER OF DISMISSAL

The above-entitled matter having come before the Court upon receipt of a letter from Thomas K. Elden, Assistant Attorney General, dated March 16th, 1987, indicating that on March 9th, 1987, a judgment was entered in the above-entitled case in Federal District Court, Civil No. 86-854-RE, ordering that the Plaintiff take nothing and tne action be dismissed on its merits, and it appearing to the Court that the above-entitled case should be dismissed based on such judgment being entered in the Federal District Court; and the Court being fully advised in the premises NOW, THEREFORE IT IS HEREBY ORDERED that the above-entitled matter be, and it is hereby, dismissed. DONE AND DATED this 22nd day of March, 1987 (signed) F.J. Yraguen CIRCUIT JUDGE (certified to be a true and correct copy of the original Pamela J. Barton, trial

court clerk by (signed) Evelyn Sword)

EXHIBIT R

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON DONALD E. TYLER, M.D., Plaintiff, v. HARTFORD INSURANCE GROUP, Sherman G. Finesilver, Oliver Seth, Monroe G. McKay, James K. Logan, William Ericksen, Donald P. Smith, Jr., A.M. Kelly, E.P. Van Cise, Judge Tursi, Edwin G. Ruland, Alan L. Sternberg, Harry S. Silverstein, Jr., Mac V. Danford, Philip F. Roan, Harlan R. Bockman, Dean Johnson, Jean J. Jacobucci, Marvin W. Foote, Anthony F. Vollack, Stephen D. Dawson, Debbie Freepons Craig, Peter Pryor, Thomas L. Roberts, John Mott, Paul D. Renner, John R. Rodman, Frank R. Kennedy, Paul D. Cooper, Donald E. La Mora, Sherman and Howard Law Firm, Michael A. Williams, Kenneth B. Siegel, Ellen W. Reath, Roger F. Johnson, Robert Ruddy, Carl R. Kostol, M.D., Allan L. Ferrin, M.D., David E.

Reid, D.O., and Howard I. Bobbitt, Defendants. Civil No. 86-854-RE OPINION Donald E. Tyler, M.D., 1092 S.W. 2nd Avenue, Ontario, Oregon 97914 Plaintiff pro se. Teresa J. Hutchens, Yturri, Rose, Burnham, Ebert & Bentz, P.O. Box S, 89 S.W. Third Avenue, Ontario, Oregon 97914, Attorneys for Defendant Hartford Insurance REDDEN, Judge:

Plaintiff, who is a physician and an attorney, brought this action against Hartford Insurance Group and 39 individuals for tortious interference with business relations, outrageous conduct and violation of 42 U.S.C. s.1983. The individual defendants include members of the Colorado judiciary presiding in all levels of both state and federal courts, members of the Colorado Medical Society, the Colorado State Medical Examiners, the attorneys who represented these individuals in prior suits brought by Dr.

Tyler in Colorado, four members of the Oregon Board of Medical Examiners and others. It is plaintiff's contention that the defendants conspired over the last 20 years to interfere with his practice of medicine and to frustrate his efforts to seek recourse in the Colorado courts.

The case was initially filed in state court but removed to federal court on July 3, 1986. Plaintiff's motion for remand was denied on October 17, 1986, and at that time I advised plaintiff he would have until November 17, 1986 to serve any defendants he wished to bring into this action. I also set a briefing schedule and date for oral arguments on the already numerous pending motions to dismiss as well as any motions to dismiss that might be filed by newly served defendants. A hearing on the motions to dismiss was held on February 6, 1987. All local counsel were ordered to appear in person but, as a

convenience to the parties and plaintiff, out of town counsel and plaintiff were allowed to appear by telephone conference call initiated from the courtroom. At the time of the hearing, plaintiff, who has represented himself throughout the case, failed to appear in person and could not be reached by telephone. After several attempts to reach plaintiff at the phone number provided by him, I proceeded. I granted all of the defendants' motions to dismiss and for summary judgment. In addition, I dismissed the action as against those defendants who had not been served. See Opinion dated March 4, 1987. Those rulings were the obvious result of the motions filed, and plaintiff's appearance, or lack thereof, did not affect the outcome. Prior to the hearing on the motions to dismiss and for summary judgment, Hartford Insurance had filed a motion for attorney's fees and costs

pursuant to Fed.R.Civ.P. 11. I determined that I would postpone ruling on the motion until after the hearing and set a time for argument on the motion for March 26, 1987. The motion was originally filed on October 14, 986, and a Statement of Costs and Disbursements was filed on February 17, 1987. No response has been filed by plaintiff to the motion or to the statement of costs.

STANDARD FED.R.CIV.P. 11 provides in pertinent part:

Every pleading, motion, and other paper of a party represented by an attorney shall be signed by at least one attorney of record. . . A party who is not represented by an attorney shall sign his pleading, motion, or other paper and state his address. . . The signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion, or other paper; that to the best of his

knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. . . . If a pleading, motion, or other paper is signed in violation of this rule, the court . . . shall impose upon the person who signed it . . . an appropriate sanction, which may include an order to pay to the other party or parties the amount of reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

The Ninth Circuit has held that subjective bad faith is not an element to be proved under Rule 11. Zaldivar v. City

of Los Angeles, 780 F.2d 823, 829 (9th Cir. 1986). The standard is one of reasonableness and the "reasonable man" against which conduct is tested is a competent attorney admitted to practice before the district court. Id. at 830. The Ninth Circuit holds that sanctions shall be assessed if the paper filed in district court and signed by an attorney or an unrepresented party is frivolous, legally unreasonable, or without factual foundation, even though the paper was not filed in subjective bad faith. Id. at 831.

DISCUSSION The basis of defendant Hartford's motion for sanctions is that the complaint and motions filed by plaintiff in this action have been legally unreasonable and without factual foundation. This argument stems from the fact that plaintiff has brought virtually identical suits containing the same

allegations and regarding the same series of events numerous times in Colorado. In one of those suits, filed in United States District Court for the District of Colorado, the court noted with particularity the insufficiency of plaintiff's claim and the inadequacy of his pleading. Defendant has provided transcripts of proceedings in which plaintiff was warned that his redundant, immaterial, insufficient, and inarticulate pleading would not be tolerated. Judge Finesilver ultimately dismissed the matter and contained within his order of dismissal was the following. "The Complaint herein was virtually unintelligible and did not adequately advise defendants of the nature of the charges against them nor provide them with information sufficient to enable them to draft a responsive pleading . . . (The Court) gave the plaintiff an opportunity

to replead by filing an amended complaint which would meet the standards of FRCP 8(a). The Plaintiff has elected not to take advantage of this opportunity." Judge Finesilver's Order of Dismissal dated May 25, 1982 at p. 2.

Defendant contends that plaintiff has failed to heed the reprimands and warnings that resulted in the dismissal of the prior action and has once again brought suit against this defendant in a manner that does not comply with Fed.R.Civ.P. 8(a). The complaint in the instant action is also virtually unintelligible and contains claims and allegations virtually identical to those that were dismissed and stricken in the previous actions. The action is based on the same series of factual events which formed the basis of the prior lawsuits. The allegations contained in this complaint are, as were they in the prior lawsuits, barred by

applicable statutes of limitations as I noted in my Order of February 6, 1987. Plaintiff has again made a claim pursuant to 42 U.S.C. s.1983 without alleging facts indicating that the defendant acted under color of law. And, similar to past lawsuits, plaintiff's complaint and filings include references to unidentified parties, unnamed defendants, unrelated lawsuits and unanswered letters. Moreover, plaintiff continues to include disparaging remarks about the defendants and their counsel. While it is true that plaintiff is acting pro se, pro se plaintiffs are subject to sanctions imposed under Fed.R.Civ.P. 11. Here, the pro se plaintiff is an attorney. I find that plaintiff's pursuit of this lawsuit was and is legally unreasonable and that this lawsuit is without factual foundation. Further proof of the unreasonableness of plaintiff's conduct is

the fact that in virtually identical prior proceedings he has been advised of the insufficiency of his claims and pleading. He has been admonished as to pleading requirements contained within Fed.R.Civ.P. 8 and yet continues to file documents which are unintelligible. The fact that these filings force the defendant to once again appear and defend itself against meritless claims which are inarticulately framed supports the motion for sanctions. The costs to defendant of defending itself are awarded pursuant to Fed.R.Civ.P. 11.

CONCLUSION For the reasons stated, I grant defendant Hartford's motion for sanctions. Defendant is entitled to reasonable expenses, including attorney's fees. I find the defendant's statement of costs and disbursements to be reasonable and order plaintiff to pay attorney's fees and costs in the total amount of $4,976.41 ($1,126.41 in costs and $3,850.00 in

attorney's fees). Dated this 31 day of March, 1987. (signed) James A. Redden United States District Judge

EXHIBIT S

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON DONALD E. TYLER, M.D., V. HARTFORD INSURANCE GROUP, Sherman G. Finesilver, Oliver Seth, Monroe G. McKay, James K. Logan, William Ericksen, Donald P. Smith, Jr., A.M.Kelly, E.P. Van Cise, Judge Tursi, Edwin G. Ruland, Alan L. Sternberg, Harry S. Silverstein, Jr., Mac V. Danford, Philip F. Roan, Harlan R. Bockman, Dean Johnson, Jean J. Jacobucci, Marvin W. Foote, Anthony F. Vollack, Stephen D. Dawson, Debbie Freepons Craig, Peter Pryor, Thomas L. Roberts, John Mott, Paul D. Renner, John R. Rodman, Frank R. Kennedy, Paul D. Cooper, Donald E. LaMora, Sherman and Howard Law Firm, Michael A. Williams, Kenneth B. Siegel, Ellen W. Reath, Roger F. Johnson, Robert Ruddy,

Carl R. Kostol, M.D., Allan L. Ferrin, M.D., David E. Reid, D.O., and Howard I. Bobbit, Defendants. Civil No. 86-854-RE ORDER REDDEN, Judge: IT IS ORDERED that Defendant Hartford Insurance's Motion for Sanctions pursuant to Fed.R.Civ.P. 11 is GRANTED. Plaintiff is ordered to pay defendant's reasonable costs and attorney's fees in the total amount of $4,976.41. IT IS SO ORDERED. Dated this 31 day of March, 1987. (signed) James A. Redden United States District Judge

EXHIBIT T

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON DONALD E. TYLER, M.D., Plaintiff, v. HARTFORD INSURANCE GROUP, et al., Defendants. Civil No. 86-854-RE JUDGMENT

IT IS ORDERED that defendant Hartford Insurance Group recover the sum of $4,976.41 from plaintiff Donald E. Tyler, M.D., for costs and attorney fees. Dated

this day of April, 1987

(copy--not signed) Robert M. Christ, Clerk, United States District Court

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF MALHEUR

DONALD E. TYLER, M.D., Plaintiff, vs HARTFORD INSURANCE GROUP, et al, Defendants. Circuit Court Case No. 87-04-21566M U S District Court District of Oregon Case No. 86-854-RE NOTICE OF FILING FOREIGN JUDGMENT

To: Donald E. Tyler, M.D., 1092 SW 2nd Avenue, Ontario, OR 97914

YOU SHALL TAKE NOTICE that on the 24th of April, 1987, the following Judgment, a copy of which is attached hereto marked Exhibit "A" and made a part hereof, was filed in the office of the Clerk of the Circuit Court of the State of Oregon for the County of Malheur: IT IS ORDERED that defendants Hartford Insurance Group recover the sum of $4,976.41 from

plaintiff Donald E. Tyler, M.D., for costs and attorney fees. Notice is further given of the following information: Name and Address of Judgment Creditor: HARTFORD INSURANCE GROUP, P O Box 8265, Boise, ID 83707 Name and Address of Judgment Creditor's Lawyers: YTURRI, ROSE, BURNHAM, EBERT & BENTZ, P.O. Box S, Ontario, OR 97914 Clerk of the Circuit Court By (signed--illegible) (Certified to be a true and correct copy of the original Pamela J. Barton, trial court clerk by (signed--illegible)

DISMISSAL IN STATE COURT BY JUDGE JACKSON

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF MALHEUR Case No. 87-04-21572L DONALD E. TYLER, M.D. Plaintiff, vs. HARTFORD INSURANCE GROUP, et al. Defendants.

ORDER ALLOWING MOTIONS TO DISMISS

Various pending motions referred to individually hereinafter came on for

hearing on July 24, 1987 before the court.

*** 3. We turn next to the various Motions of the several Defendants to dismiss for failure to state a claim or cause of action. The Plaintiff, representing himself, has filed a 92 page complaint, together with exhibits attached of about twice that many additional pages. It is obviously another attempt in a series of lawsuits to obtain redress for real or imagined damages arising out of a series of incidents in Colorado, not Oregon. Plaintiff's complaint, including its exhibits by its own allegations reveals that it is an attempt to relitigate a matter commenced in the Circuit Court of the State of Oregon for Malheur County on July 7, 1986 as case numbers 86-06-20969 L (See Exhibit "A" to Plaintiff's complaint). The case was removed to Federal Court. (See Exhibit "B" to Plaintiff's complaint). Judge Redden

issued his opinion on March 31, 1987. (See Exhibit "R" to Plaintiff's complaint). Plaintiff herein was ordered to pay Defendant Hartford's attorney fees and costs in the sum of $4,976.41. (See Exhibit "T" to Plaintiff's complaint).

There was no appeal.

This lawsuit is no different from the last, except that Plaintiff now attempts to involve the attorneys for the Defendants previously sued by claiming they are part of the alleged conspiracy he claimed in his original lawsuit.

In the Court's opinion, adding different Defendants and claiming a conspiracy in removing the case from State to Federal Court does not change the basic underlying claim which has already been determined and is therefore res judicata and Plaintiff is collaterally estopped from raising the same issues in this litigation. (emphasis added)

Under different circumstances, the Court could go along with Plaintiff's argument that claiming res judicata would be an affirmative defense, but here the Plaintiff has himself pled the fact that the case was previously decided in Federal Court.

It is obvious that Plaintiff has no cause of action against the Defendants, or any of them, in spite of 92 pages of incomprehensible claims and faulty conclusions.

All of Defendants' Motions to Dismiss for failure to state a cause of action should be and hereby are ALLOWED.

*** In as much as it appears that to allow the Plaintiff leave to amend would serve no useful purpose, leave to amend is DENIED. Defendants are allowed costs and disbursements.

DATED this 30th day of July, 1987.

(signed) WILLIAM L. JACKSON Circuit Judge

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF MALHEUR

REGISTER OF ACTIONS --CIVIL

Case # 86-06-20969-L

Plaintiff: Donald E. Tyler, M.D.

Defendants: Hartford Ins. Co., et al.

Month/day/year	Papers filed	
6/3/86	**1**	**Complaint**
6/11/86	2	Summons - Carl R. Kostol M.D.
	3	6/8/86
6/23/86	4	Summons returned 6/13/86
	5	Carl Kostol, M.D.
6/24/86	6	Sheriff's return of
	7	Summons on Hartford Ins
	8	Group. 6/4/86
7/7/86	**9**	**Amended Complaint**
7/9/86	10	Notice of filing of
	11	Petition For Removal
7/9/86	12	AFF. of Michael Miller
7/9/86	13	Motion to Quash Service
	14	and dismiss Plaintiff's
	15	Amended Complaint

CONSTITUTIONS, STATUTES, RULES

U.S. CONSTITUTION

Amendment I. Congress shall make no law *** abridging the freedom of speech, or of the press; or the right *** to petition the Government for a redress of grievances.

Amendment V. No person shall be held *** , nor be deprived of live, liberty, or property without due process of law; ***.

Amendment VII. In suits at common law *** the right of trial by jury shall be preserved, and no fact *** shall otherwise be re-examined in any Court of the United States, than according to the rules of the common law.

OREGON CONSTITUTION Art. I

§ 10. No court shall be secret, but justice shall be administered, openly and without purchase ***.

§ 16. *** but all penalties shall be proportioned to the offense. In all

criminal cases whatever, the jury shall have the right to determine the law, and the facts ***.

§ 17. In all civil cases the right of Trial by Jury shall remain inviolate.

FEDERAL STATUTES

18 USC §1621. Whoever (1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true; or (2) *** ; is guilty of perjury and shall, *** , be fined not more than $2,000 or imprisoned not more than five years, or both. ***.

18 USC §371. If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined not more than $10,000 or imprisoned not more than five years, or both. ***.

18 USC §241. If two or more persons conspire to injure, oppress, threaten, or initimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution of laws of the United States, or because of his having so exercised the same; or *** -- They shall be fined not more that $10,000 or imprisoned not more than ten years, or both; ***.

28 USC §144 Whenever a party to any proceeding in a district court makes and

files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, ***.

28 USC §455 (a) Any justice, judge, magistrate, or referee in bankrubpcy of the United States shall disqualify himself in any prpceeding in which his impartiality might reasonably questioned.

28 USC §2283 A court of the United States may not grant an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments.

28 USC §1912 Where a judgment is affirmed by the Supreme Court or a court of appeals, the court in its discretion

may adjudge to the prevailing party just damages for his delay, and single or double costs.

28 USC § 1446 (a) A defendant or defendants desiring to remove any civil action or criminal prosecution from a State court shall file in the district court of the United States for the district and division within which such action is pending a verified petition containing a short and plain statement of the facts which entitle him or them to removal together with a copy of all process, pleadings and orders served upon him or them in such action.

(b) The petition for removal of a civil action or proceeding shall be filed within thirty days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, ***.

(d) Each petition for removal of a civil action or proceeding, except a petition in behalf of the United States, shall be accompanied by a bond with good and sufficient surety conditioned that the defendant or defendants will pay all costs and disbursements incurred by reason of the removal proceedings should it be determined that the case was not removable or was improperly removed.

(e) Promptly after the filing of such petition for the removal of a civil action and bond the defendant or defendants shall give written notice thereof to all adverse parties and shall file a copy of the petition with the clerk of such State court, which shall effect the removal and the State court shall proceed no further unless and until the case is remanded.

28 USC § 1447 Procedure after removal generally (a) In any case removed from a State court, the district court may issue

all necessary orders and process to bring before it all proper parties whether served by process issued by the State court or otherwise. (b) It may require the petitioner to file with its clerk copies of all records and proceedings in such State court or may cause the same to be brought before it by writ of certiorari issued to such State court. *****

FEDERAL RULES OF CIVIL PROCEDURE

Rule 7. (a) Pleadings. There shall be a complaint and an answer; ***.

Rule 11. Signing of Pleadings, Motions, and Other Papers; Sanctions

Every pleading, motion, and other paper of a party represented by an attorney shall be signed by at least one attorney of record in his individual name, whose address shall be stated. A party who is not represented by an attorney shall sign his pleading, motion, or other paper and state his address. Except when otherwise

specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The rule in equity that the averments of an answer under oath must be overcome by the testimony of two witnesses or of one witness sustained by corroborating circumstances is abolished. The signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion, or other paper; that to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion, or other paper is not signed, it shall be

stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion, or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including as reasonable attorney's fee.

FEDERAL RULES OF APPELLATE PROCEDURE

Rule 38. If a court of appeals shall determine that an appeal is frivolous, it may award just damages and single or double costs to the appellee.

OREGON STATUTES

ORS 9.460 Duties of attorneys. An attorney shall: ***(3) Counsel or maintain

such actions, suits or proceedings or defenses only as may appear to the attorney legal and just, except the defense of a person charged with a public offense; (4) Employ, for the purpose of maintaining the causes confided to the attorney, such means only as are consistent with truth, and never seek to mislead the court or jury by any artifice or false statement of law or fact; (5) ***; (6) Abstain from all offensive personality, and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which the attorney is charged; ***.

ORS 161.450 "Conspiracy" described. (1) A person is guilty of criminal conspiracy if with the intent that conduct constituting a crime punishable as a felony or a Class A misdemeanor be performed, the person agrees with one or

more persons to engage in or cause the performance of such conduct. (2) Criminal conspiracy is a: (a) Class A felony if an object of the conspiracy is commission of murder, treason or a Class A felony. (b) Class B felony is an object of the conspiracy is commission of a Class B felony. (c) Class C felony if an object of the conspiracy is commission of a Class C felony. (d) Class A misdemeanor if an object of the conspiracy is commission of a Class A misdemeanor.

ORS 162.065 Perjury. (1) A person commits the crime of perjury if the person makes a false sworn statement in regard to a material issue, knowing it to be false. (2) Perjury is a Class C felony.

ORS 162.085 Unsworn falsification. (1) A person commits the crime of unsworn falsification if the person knowingly makes any false written statement to a public servant in connection with an

application for any benefit. (2) Unsworn falsification is a Class B misdemeanor.

ORS 162.235 Obstructing governmental or judicial administration. (1) A person commits the crime of obstructing governmental or judicial administration if the person intentionally obstructs, impairs or hinders the administration of law or other governmental or judicial function by means of intimidation, force, physical or economic interference or obstacle. ***.(3) Obstructing governmental or judicial administration is a Class A Misdemeanor.

ORS 162.305 Tampering with public records. (1) A person commits the crime of tampering with public records if, without lawful authority, the person knowingly destroys, mutilates, conceals, removes, makes a false entry in or falsely alters any public record. (2) Tampering with public records is a Class A misdemeanor.

RACKETEERING

ORS 166.715 Definitions for ORS 166.715 to 166.735. As used in ORS 161.705 and 166.715 to 166.735, unless the context requires otherwise: ***

(2) "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business trust or other profit or nonprofit legal entity, and includes any union, association or group of individuals associated in fact although not a legal entity, and both illicit and licit enterprises and governmental and nongovernmental entities.

(3) "Pattern of racketeering activity" means engaging in at least two incidents of racketeering conduct that have the same or similar intents, results, accomplices, victims or methods of commission or otherwise are interrelated by distinguishing characteristics, including a nexus to the same enterprise, and are

not isolated incidents, provided at least one of such incidents occurred after November 1, 1981, and that the last of such incidents occurred within five years after a prior incident of racketeering conduct.

(4) "Person" means any individual or entity capable of holding a legal or beneficial interest in real or personal property.

(5) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce or intimidate another person to commit:

(a) Any conduct which constitutes a crime, as defined in ORS 161.515, under any of the following provisions of the Oregon Revised Statutes: ***,

(B) ORS 162.015, 162.025 and 162.065 to 162.085 relating to bribery and perjury;

(C) ORS 162.235, 162.265 to 162.305, 162.235, 162.335, 162.355 and 162.365,

relating to obstructing governmental administration.

(D) ORS 162.405 to 162.425, relating to abuse of public office; ***.

ORS 166.720 Racketeering activity unlawful; penalties. (1) It is unlawful for any person who has knowingly received any proceeds derived, directly or indirectly, from a pattern of racketeering activity or through the collection of an unlawful debt to use or invest, whether directly or indirectly, any part of such proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of any title to, or any right, interest or equity in, real property or in the establishment or operation of any enterprise. (2) It is unlawful for any person, through a pattern of racketeering activity or through the collection of an unlawful debt, to acquire or maintain, directly or indirectly, any interest in or

control of any real property or enterprise. (3) It is unlawful for any person employed by, or associated with, any enterprise to conduct or participate, directly or indirectly, in such enterprise through a pattern of racketeering activity or the collection of an unlawful debt. (4) It is unlawful for any person to conspire or to endeavor to violate any of the provisions of subsections (1), (2) or (3) of this section. (5)(a) Any person convicted of engaging in activity in violation of the provisions of subsections (1) to (4) of this section is guilty of a Class A felony. ***** .

ORS 166.725 Remedies for violation of ORS 166.720; time limitation. ***** (7)(a) Any person who is injured by reason of any violation of the provisions of ORS 177.720 (1) to (4) shall have a cause of action for three-fold the actual damages sustained and, when appropriate, punitive

damages. Such person shall also recover attorney fees in the trial and appellate courts and costs of investigation and litigation, reasonably incurred.

(b) The defendant or any injured person may demand a trial by jury in any civil action brought pursuant to this section.

OREGON RULES OF CIVIL PROCEDURE

Summons Rule 7

***** D. Manner of service.

D.(1) *** Service may be made, subject to the restrictions and requirements of this rule, by the following methods: personal service of summons upon defendant or an agent of defendant authorized to receive process; substituted service by leaving a copy of summons and complaint at a person's dwelling house or usual place of abode; office service by leaving with a person who is apparently in charge of an office; service by mail; or, service by publication. *****.

RESPONSIVE PLEADINGS RULE 19

***** **B. Affirmative defenses.**

In a pleading to a preceding pleading, a party shall set forth affirmatively *** estoppel, *** res judicata *** and any other matter constituting an avoidance or affirmative defense. ***.

RULE 23

A. Amendments. A pleading may be amended by a party once as a matter of course at any time before a responsive pleading is served ***. Otherwise a party may amend the pleading only by leave of the court or by written consent of the adverse party; ***. D. *** When any pleading is amended before trial *** it shall be done by filing a new pleading, to be called the amended pleading, ***.

Submitted by: Donald E. Tyler, M.D.,
Petitioner, pro se,
1092 S.W. 2nd Ave., Ontario, OR 97914